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COMMISSION OF INQUIRY INTO THE
USE OF DRUGS AND BANNED PRACTICES
INTENDED TO INCREASE ATHLETIC PERFORMANCE

B E F O R E:

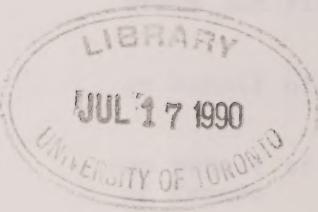
THE HONOURABLE MR. JUSTICE CHARLES LEONARD DUBIN

HEARING HELD AT 1235 BAY STREET,
2nd FLOOR, TORONTO, ONTARIO,
ON THURSDAY, JUNE 15, 1989

VOLUME 60

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C O U N S E L:

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on behalf of the
Commission

R. BOURQUE

on behalf of the Canadian
Track and Field Association

J. FREEDMAN

on behalf of W. Wedmann

J. DePENCIER

on behalf of the Government
of Canada

R. MORROW

on behalf of the Sport
Medicine Council of Canada

A. PRATT

on behalf of Charles
Francis

L. LEVINE

on behalf of Dr. M. G.
Astaphan

MS. S. HICKLING

on behalf of Bishop
Dolegiewicz

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--- Upon resuming.

THE COMMISSIONER: Good morning.

5 MR. O'SULLIVAN: Good morning, Mr.

Commissioner.

MR. ARMSTRONG: Mr. Commissioner, we are now ready to proceed with Mr. Robert Gray as our next witness.

10

ROBERT GRAY: Sworn.

MR. ARMSTRONG: Mr. Commissioner, Mr. Terrence O'Sullivan is here as Mr. Gray's counsel.

15

THE COMMISSIONER: Very well, Mr.

Armstrong.

---EXAMINATION BY MR. ARMSTRONG:

20

Q. Thank you, Mr. Commissioner. Mr. Gray, you were born on October the 5th, 1956, in Toronto; is that correct?

25

A. Yes, sir.

Q. And spent your early years at school in Toronto. At the high school level you had a year when your father was doing a sabbatical in England where you attended the American high school in High Wycombe near

London?

A. Yes, that's correct.

5

Q. And in Toronto, you attended high school at Upper Canada College, Silverthorn Collegiate and finishing up at Michael Power High School for two years where, among its many credentials as an outstanding academic institution, it also happened at the time, I believe, to have one of the best track teams in Ontario?

10

A. Yes, it did for four or five years straight I think they did in high school.

Q. And then after high school in Toronto, you went to Southern Methodist University in Texas on a full track scholarship?

15

A. Yes, sir.

Q. And you were at Southern Methodist from the fall of 1976 to May of 1980, receiving a Bachelor of Arts degree majoring in history?

20

A. Yes.

Q. And after staying on in the Dallas area for a year doing training and part-time work, you then found your way back to Canada and Toronto and enrolled at Osgoode Hall Law School, York University?

25

A. Yes.

Q. And you graduated with your LLB. in 1984?

A. Yes.

Q. You were called to the Bar of Ontario
in 1986?

A. That's correct.

5 Q. And prior to your call to the bar, you
articled at the law firm of McMillan Binch and you're
presently practicing with the law firm of Lyons Goodman;
is that correct?

A. That's correct.

10 Q. All right. Now let me take a moment or
two with your track career. I understand it started in
the first year of high school at Upper Canada College
where you began as a thrower, and were you throwing both
the discus and putting the shot at that time or have you
15 always been a --

A. Mainly a discus thrower. A shot-putter
a little bit.

20 Q. All right, and then through the years
in Toronto at the high school level, you were second three
years running in the Ontario championships, and then in
1976, your last year in high school, you won the Ontario
championship at the Austin meet; is that correct?

A. Yes, I finally won it the last year.

25 Q. All right. And like the other athletes
that we have heard from, you of course had a club

affiliation, is that not so?

A. Yes, sir.

Q. And what was your club affiliation before you went off to SMU?

5

A. At that time I was playing with the Michael Power Track Club.

THE COMMISSIONER: I'm sorry, with who?

THE WITNESS: The Michael Power Track Club.

The high school actually had a summer time club.

10

MR. ARMSTRONG:

Q. And then when you went down to SMU to compete, would you come back to Toronto in the summers?

A. Yes, and compete again in the summers.

15

Q. And did you then have a club affiliation here?

A. I eventually joined the Scarborough Optimists in 1977, '78. Sometime around then.

20

Q. And how long did you remain with the Scarborough Optimists?

A. Until 1985 I believe.

Q. And did you have a club affiliation after 1985?

A. Yes, the Etobicoke Husky Striders.

25

Q. Then just picking out some of the

highlights of your career as a discus thrower in the United States at the NCAA level, I understand that in your sophomore year with SMU, you were third in your conference and 10th overall in the NCAA?

5

A. That's correct.

Q. Which would make you the number 10 collegiate thrower in the United States?

A. That year, yes.

10 Q. All right. And then in your junior year, you were 7th overall NCAA in the United States?

A. That's correct.

15 Q. And unfortunately, in your senior year, you didn't compete, but I have it on good authority from your counsel, who isn't always a good judge of talent but an excellent judge of athletic talent, that had you competed that year, you would have won the NCAA?

A. I would have had a very good opportunity to, yes.

20 THE COMMISSIONER: Is that what the lawyer is saying or is that what the witness is saying?

MR. ARMSTRONG: Well, I think they are both saying that. I think they are both saying that.

THE WITNESS: I had planned to have won it anyways.

25

MR. ARMSTRONG:

5

Q. All right. Then apart from your intercollegiate career, you competed for Canada in the 1978 Commonwealth Games in Edmonton and won a bronze medal?

A. Yes, that was the first time on the national team for me, yes.

10

Q. And in 1979, you competed for Canada in the PanAmerican Games in Puerto Rico, and my note, if I'm clear, it looks like perhaps you were fifth or sixth in the PanAmerican Games?

A. Fifth, but I stand to be corrected. I may have come sixth. I didn't do very well.

15

Q. All right. Then, Mr. Gray, you were selected for the Canadian Olympic team in 1980; is that so?

A. The team that went nowhere, yes.

Q. However, I take it you did attend some of the alternative Olympic meets in Europe, Stuttgart?

20

A. Stuttgart and Philadelphia.

25

Q. All right. And then in 1982, moving along and picking up some of the highlights, you were back on the Commonwealth team in Brisbane, the Canadian -- or sorry, the Canadian team at the Commonwealth Games in Brisbane where you won the silver medal?

A. That's correct.

THE COMMISSIONER: What year was that, Mr. Armstrong?

MR. ARMSTRONG: 1982.

5

THE COMMISSIONER: Thank you.

MR. ARMSTRONG:

10

Q. And then 1984, if I can move ahead to there again, you were selected as a member of the Canadian team in the Los Angeles Olympics, and I understand you were injured but competed in any event and came 13th in the Los Angeles Olympics?

A. Yes.

15

Q. And in 1984, you set both the Canadian record for the discus and the -- or you broke the Canadian record. You set a new Canadian record for the discus, broke the Commonwealth record and set a new Commonwealth record for the discus at a distance of 67.32 metres?

A. That's correct.

20

Q. And do you still hold both those records today?

A. As of today, yes.

Q. All right. And you had been a carded athlete and member of our national team from 1978 to 1986?

25

A. That's correct.

Q. And you have been the Canadian champion consistently over the years in the discus 1979, 1983, 1984, 1985 and 1986; is that correct?

A. Yes, sir.

5

Q. Unfortunately, we have to put an asterisk at 1986 because that was the year that in the national championships as a result of a positive test you were suspended?

A. That's correct.

10

Q. Now, could we just take a moment again, Mr. Gray, just for the -- I think the background that would be of assistance to the Commissioner to just talk a little bit about your training.

15

We have had the opportunity to question a number of sprinting athletes about what might be involved in a typical training day for a sprinter. In your case as a thrower of long standing and a member of the national team, could you just take a moment and tell us what would be involved in a training day for somebody like yourself?

20

A. Well, of course it would depend on the time of year, but during the heavy training period of the year, it would be -- I would go to the track at 2:30, 3:00 at the York centre and do some warmup laps. And then my coach would actively stretch me because I was a very tight individual, no flexibility, which is very important for

25

throwing.

He would probably stretch me for 30 to 45 minutes, and then we would proceed to do a modified sprint workout or striding, which is something that Charlie Francis provided to us, to help me with my speed because it takes a lot of quickness to throw the implement a long way.

After doing that, he would do exercises -- sprint work that would take approximately half an hour, I suppose, and then he would move on to where you would actually start to throw things over your head to help your explosiveness, and also doing a jumping workout. That would probably take 30 to 45 minutes, a combination of whatever you want to do.

You would do a lot of abdominal work where you would be moving the medicine balls around from side to side to help you with the abdominals which are very important to throw with. Generally you would spend about two, two and a half hours before you even got into doing the fun part, the throwing part.

We would jump three times or four times a week. I would do a workout which would consist of up to 100 to 150 jumps over hurdles or benches or something like that to help your legs with explosiveness, and that, of course, would take a long time. And when you were 280

25

pounds, it hurts to jump over hurdles, but --

THE COMMISSIONER: How high were the
hurdles?

5 THE WITNESS: Oh, as low as I could make
them. They got higher as the season progressed because it
was quality more than quantity at that time.

10 THE COMMISSIONER: By the way, would you
have different coaches for each of these little parts of
the workout? You said that Mr. Francis would help you
with the sprinting. Would you have a coach on the
mechanics of discus throwing? Would there be another
coach for that?

15 THE WITNESS: Yes, my main coach would be
the one that would help me with my technique and monitor
my whole training program.

THE COMMISSIONER: You had one coach mostly
through your career for discus? You had a coach in
Southern Methodist, I guess, did you?

20 THE WITNESS: He was a coach but he didn't
know anything about the discus and he admitted that much
to me when he recruited me.

THE COMMISSIONER: Okay. Well then what
coach knew something about discus that helped you?

25 THE WITNESS: Oh, at SMU? Really no one.
There was an athlete down there that helped me out who was

on the American Olympic team.

THE COMMISSIONER: So you were coaching yourself, in a sense, in discuss?

THE WITNESS: At that time, yes.

5

THE COMMISSIONER: What about in Canada when you were working out here?

THE WITNESS: In the summertime I had a coach, a national team coach by the name of Ivan Pintaric who was an excellent coach. He was an excellent technical coach, and he helped me -- he was my coach I think from '77 through '83, and he would be who I would work out with in the summers when I came home from the States, and when I came back to go to school in Canada, I worked out with him until about '83 and then I went to another coach.

10

15 THE COMMISSIONER: You left Southern Methodist in '84 I see.

THE WITNESS: 1980.

THE COMMISSIONER: 1980 was the last year at Southern Methodist?

20

THE WITNESS: I went down to Osgoode.

THE COMMISSIONER: Oh, yes, '84 is Osgoode. Oh, yes, you got B.A. in 1980. So the rest of your career was in Canada I guess?

THE WITNESS: Yes.

25

THE COMMISSIONER: What other coach would

you have for the discus?

THE WITNESS: Since --

THE COMMISSIONER: '83?

THE WITNESS: '83? Mike Mercer took over.

5

THE COMMISSIONER: Was this at the York centre?

THE WITNESS: Yes, it was .

THE COMMISSIONER: Go ahead, Mr. Armstrong.

10

MR. ARMSTRONG:

Q. I just wanted to complete with you the typical training day, and I think you were telling us about some of the jumping that you did. You have given us a number of the exercises that you did. One of the things you said, you would throw heavy things over your head.

15

What are we talking about there?

A. You would throw a 16 pound shotput over your head or from the front. It was just to help your legs get explosive. It was -- that was actually almost fun because you could throw it for distance. The fun part was trying to throw things for distance. Not all these other exercises. They were necessary evils.

20

Q. Then you didn't mention weight training or lifting weights. Would you be involved in that?

25

A. Yes, three or four times a week, maybe

5

more, we would spend two or three hours a day lifting weights. That was done at another place though. We wouldn't lift at York very often. We would go to the Fitness Institute so we could have a nice sauna and whirlpool after the workout. We like the rest and relaxation part, that part of the day, getting in the whirlpool.

10

Q. And then you would also presumably at some point after doing all these things throw the discus?

A. That's correct.

Q. And how much of your -- in this heavy training season that we're talking about, how much of your time would be spent actually throwing the discus?

15

A. Oh, it would depend. If it was indoors, we would probably spend an hour and a half, two hours. If it was outdoors, it would take two, two and a half hours because you had to go and fetch them, but I would take on average about 125 throws a day and that would be six days a week. Many days I threw long enough until my hands bled. There is a callous that develops when you're a discus thrower right on this finger here, and it tends to break at times and causes a little bit of blood, but that's part of the game.

20

25

Q. And these workouts that you have described, would they be five days a week, six days a

week?

THE COMMISSIONER: He said six.

MR. ARMSTRONG:

Q. Six?

5

A. I generally worked out seven days a week, which a lot of people thought I was crazy, but I was somewhat obsessed. We wouldn't go crazy everyday. I mean, there would be five or six days when you would do almost everything. You wouldn't throw everyday. I would throw six days a week, but you can't lift everyday and you can't jump everyday so it would be a combination.

10

And there would be days when you just wouldn't do very much of anything but go for a sauna and a whirlpool and a little jog and a stretch.

15

Q. Okay. Now you mentioned speed work, and in fact, Mr. Francis coaching you in regard to your speed work. How did you find his assistance? Did it help?

20

A. He was excellent. He helped get my 40 time down to 4.55. He was very instrumental in making me much faster which helped a great deal, particularly in the year I set the Canadian Commonwealth record. He was very helpful that year and that was the first year he ever really trained with me, where he helped with my training.

25

Q. All right. And your time of 4.55, I am sorry, was over what distance?

A. Over 40 yards.

Q. Forty yards.

5 A. At that time I weighed 282 pounds which was -- well, actually, I think some football scouts may have been drooling if they had known about it.

Q. I was just wondering where were the Argonauts when they needed you.

10 A. They didn't have enough money at that time.

Q. All right. Then, Mr. Gray, I wanted to move on now and ask you some questions about the subject of drugs.

15 Now, at some stage in your career as a discus thrower did you become introduced to drugs?

A. Yes, it was in late 1977, my freshman year at SMU. I got -- well, I knew about them before that, of course. Everybody had heard about them, but that was when I first became involved on my -- personally taking them.

Q. And what drug did you become involved with?

A. I -- at that time it was Dianabol.

25 Q. All right. And we have heard a lot

about dosages and so on, and I am not, as I have indicated to other witnesses recently, going to try the Commissioner's patience and others by going through it dose-by-dose, but did you during the period of your
5 athletic career at the intercollegiate level in the United States, was the use of a drug such as Dianabol something that you did use over a period of time?

A. Yes.

Q. And during the period up to say 1980,
10 were there any other drugs or steroids that you became involved with as part of your training schedule?

A. At one time we -- I had used some Deca-Durabolin in the late seventies until it became known that it was -- stayed in your system for a long period of
15 time and you had to stay away from it.

Actually, a bunch of people got tested in 1980-'81 who came in positive for that drug and everybody, of course, immediately stopped using it. And that's -- that was about the extent of that.

20 Q. Now, tell me, Mr. Gray, what if anything, when you were introduced to Dianabol and Deca-Durabolin, did you know about the side effects of those drugs?

A. Well, I did a fair amount of research
25 into the substances before I started to take any of them.

So, I had done some reading. I knew about the possibilities of liver damage -- well, everything we have heard here. I have been following the hearings.

5 I read, you know, the liver damage, the heart problems, you know, the testicular shrinkage and things like that.

I had done some extensive reading on it so I knew all about the side -- the possible side effects.

10 Q. And recognizing the seriousness of those side effects, however, you must have come to your own conclusion that you were prepared to take whatever the risk was in any event?

A. Yes.

Q. All right.

15 THE COMMISSIONER: Where did you get the drugs when you were in --

THE WITNESS: When I first got them it was in Dallas. And I think I got them from another athlete down there. It was not very hard to get, I can tell you that.

20 THE COMMISSIONER: From one of your colleagues on the team?

THE WITNESS: Yes, it would have been one of the -- it may have been one of the athletes that I was working out with.

THE COMMISSIONER: Where did he get them, as far as you know?

5

THE WITNESS: He had -- I believe he may have had somebody that he knew in the pharmacy that was providing it to him, or he had a doctor in Dallas. He was from Dallas, so he had a lot more connections there than I did.

THE COMMISSIONER: All right.

10

MR. ARMSTRONG:

Q. All right. Then, Mr. Gray, you have just mentioned to the Commissioner that steroids or Dianabol, in particular, were not hard to get when you were down there in Dallas.

15

During that period of your intercollegiate career in the late seventies in the United States, how prevalent among throwers was the use of anabolic steroids?

20

A. It was very prevalent. Any -- most of the people in the top, the NCA level, the level that would make the NCA standard were doing it. And, surprisingly, a lot of people -- a lot of throwers that weren't that good were using it, too. You kind of wonder why because they weren't getting anywhere, but it was used extensively in the college level.

25

Q. Now, I understand that the throwers in

particular are almost a kind of fraternity unto themselves in the sport of track and field, is that so?

A. That's correct. We have been described as the bikers of track and field.

5

THE COMMISSIONER: The what?

THE WITNESS: The bikers.

THE COMMISSIONER: The bikers.

10

MR. ARMSTRONG: Well, I thought I put it a little more kindly than you did, but you are the one who is under oath, not I.

MR. ARMSTRONG:

Q. Let's stick with the description --

A. Fraternity.

15

Q. -- of the fraternity. And even though you would I suppose be competing against your own teammates, you would be competing obviously against other people from other universities. As I understand it from our discussion yesterday with you and Mr. O'Sullivan, the throwing fraternity was close knit, friendly?

20

A. Yes, it is -- it's unlike most of the other events in track and field. There seems to be more of a competitiveness between the sprinters and they don't socialize. But throwers, there is so few of us that we tend to socialize with our own kind. And after meets we

25

tended to go out and have a beer and something to eat. That was our two main things in life, eating and drinking, I think at that time and --

Q. A little throwing, too, I suppose.

5

A. Well, we did that in the afternoon and went out and had a good time at night after we tried to beat each other up in the day, but we were -- it is much more open. There is a certain comradery amongst the throwers that you don't get in other aspects of track and field, I think.

10

Q. All right.

A. It was one of the things that made it enjoyable, too.

15

Q. And was the subject of drugs, and, in particular, anabolic steroids was that something that during your intercollegiate career was freely talked about?

20

A. Definitely. It was one of the main topics of conversation throughout these dinner, evenings out and things like that. It would be a topic, we would discuss what drugs were being used by who, clearance times, things like that, what were good, what was effective. Just basically -- it was just part of the life of being a thrower. You talk about how much you could bench press, you talked about what you were taking, et

25

cetera. It would go on from there. It was nothing unusual to talk about.

THE COMMISSIONER: Did you ever talk about your studies at SMU?

5 THE WITNESS: That was not one of the main things that some of my colleagues in the throwing world worried about.

MR. ARMSTRONG:

10 Q. Then, Mr. Gray, I take it clearly from what you are saying that certainly among the throwers this subject of steroids was no secret?

A. Oh, no, it was no secret at all.

15 Q. Let me move you along in the same vein from the time of your intercollegiate career after you left SMU, you came back to Canada, you competed right up to 1986.

20 Did you experience when you were competing nationally for Canada and with the Canadian team abroad and so on that there was the same kind of fraternal group --

A. Very --

Q. -- among the throwers internationally?

25 A. Yes, very much similar. It would be the same kind of deal after a meet we would be the ones

who would go out for a beer and talk about things and that would be the main topic of conversation amongst us.

Q. And let me just ask you this then through the late seventies-early eighties, right up until the time that you stopped competing in 1986 at the elite international level, from your experience in these discussions, what conclusion if anything did you come to as to how prevalent the use of anabolic steroids was among throwers?

A. Well, at the international level you wouldn't get there if you weren't using them, it was everyone I talked to at the international level was using them. There was -- nobody was trying to hide that from each other. We all knew what we were doing basically, we talked about it.

There was a few people that didn't like to talk about it as much as others, but it was quite open. It was quite clear that everybody was using it to get to that level.

Q. Now, at some point in your career, did you become introduced to Dr. Astaphan?

A. Yes, sometime late 1983, early 1984, I am not sure, probably February '84, January '84. Charlie Francis told me about Dr. Astaphan.

THE COMMISSIONER: Before you get there,

you came back to Canada in 1980, and I gather this use of steroids as part of your training program continued when you came back to Canada?

THE WITNESS: Yes, sir.

5 THE COMMISSIONER: Where did you get the drugs then?

THE WITNESS: Actually mostly from connections I had in the United States, people down there that were still down there.

10 THE COMMISSIONER: How would you get them?

THE WITNESS: Well, people -- I would be going to travel down there for meets, and I would say can you --

15 THE COMMISSIONER: Or when they came up here they would bring some for you?

THE WITNESS: Or some of the athletes I knew that were at American colleges in the States would bring it up for me.

20 THE COMMISSIONER: All right. I am sorry I interrupted you, you were --

MR. ARMSTRONG: No, that's fine.

MR. ARMSTRONG:

Q. Then when you, in late 1983-early 1984, on the recommendation of Mr. Francis you said you went to

25

Dr. Astaphan. We know that Dr. Astaphan practiced in Toronto up until the summer of 1986. And did you go and see him on a regular basis after that time?

A. It wasn't totally regular. But I would
5 like to say one thing about it that Charlie just didn't refer me to Dr. Astaphan for steroids. He said this is a doctor that's interested in taking care of athletes and who has some knowledge.

Q. Yes?

10 A. Which is something we all needed because I was -- one of my big problems in my career has been injuries. And so I was very interested in having a doctor that would be monitoring my progress, which is what he did.

15 But to answer your question, he -- I did see him for my -- early '84 until I went to the Olympics. Then I articled. And then I after I didn't get hired back, I started to train again and -- for the fall I wanted to try to make the standard again, to get carded so I would have my bar admission course paid.

20 And I think I started to see him again some time in the summer, May, June, July, August of '85. And then there would be a break, and I think I -- I may have kept going, I can't remember, until sometime in '86 when finally the -- I got caught in '86 in June.

Q. All right. And you have explained the reason why Mr. Francis recommended that you go and see him and why indeed you wanted to see him yourself. And I take it he did monitor you and look after whatever your
5 situation was from a point of view of injuries and from the point of view of your physical training and medical needs related to your physical training; is that so?

A. Yes, he was excellent.

Q. All right. And over that period of
10 time, did you in fact receive from him anabolic steroids?

A. Yes, I did.

Q. All right. And again I am attempting to avoid going through this either pill-by-pill or injection-by-injection, can you give us an indication over
15 the period of time generally what it was you would have received from Dr. Astaphan in the anabolic steroid area?

A. At first it was a combination of the Inosine, and I think it was testosterone at first. And -- but that was in the first time that I was with in '84.

20 Then '85 it seemed to be a different substance. And I had heard it was a liquid Dianabol. He never -- I can't remember if he ever told me exactly what it was. I asked him about it a number of times what it was and he never really -- he changed his story a lot. I
25 found that he --

THE COMMISSIONER: We have had heard about water-based Dianabol?

5 THE WITNESS: Well, that's what I heard it was at one time. That's what I thought it was in '85, it was water-based Dianabol. And which would interest me because Dianabol had always given me good results. And that's what I thought it was at first. Then I heard from Angella Issajenko and some other people that it might not have been, and it was Estragol or, you know, these
10 different names starting being bandied about.

THE COMMISSIONER: Did you ever ask the doctor what it was you were getting?

THE WITNESS: I think I did, and he gave evasive answers.

15

MR. ARMSTRONG:

Q. Did he ever tell you about Furazabol? When I say tell you about Furazabol, did he ever mention the word or term Furazabol?

20

A. Not to me. Not -- I never heard it until after the Olympics.

THE COMMISSIONER: Did he mention the word Estragol?

25

THE WITNESS: I can't be sure. I have heard it so many sometimes since --

THE COMMISSIONER: Exactly, I have got to be careful about.

5

THE WITNESS: I may have heard it before. I know I heard it from Angella before the Olympics, but I don't know if I ever heard it from Dr. Astaphan.

THE COMMISSIONER: I see.

10

MR. ARMSTRONG:

Q. What about the drug named Miotolin or Myotolin, did you ever hear of that that from Dr. Astaphan?

15

A. Not before the '88 Olympics.

Q. When you received injections from Dr. Astaphan, did you ever notice any labels on the bottles? Or maybe I am asking the impossible to put your mind back that far, I don't know.

20

A. I can't remember seeing any other than labels sometimes he would put on them himself saying Dr. George -- whatever his initial was -- Astaphan, and his address. I had seen those before.

Q. All right. I have got the famous Exhibits 117A --

A. Exhibit 117A.

Q. -- here.

25

THE COMMISSIONER: If you keep shaking it

you are going to wear out that bottle.

MR. ARMSTRONG:

Q. Did you ever receive injections from
5 Dr. Astaphan of a substance that looked like that from a
bottle that looked like that?

A. Very much similar looking bottle. It's
looks a little different than the one I used but maybe
it's the tape on the top, but that looks very much similar
10 to the substance.

There was also another substance that I have
seen that was sort of a more brownish -- it was a
combination, I think.

THE COMMISSIONER: We heard that for the
15 Inosine and the vitamin B-12. Did you get that as well?

THE WITNESS: Well, I had seen it put
together, too. I have seen it in one bottle.

THE COMMISSIONER: We heard that sometimes
you will draw out from two bottles and give you an
20 injection of one which had both the steroid and the
Inosine and the vitamin B-12?

THE WITNESS: Yes, I have seen that.

THE COMMISSIONER: As part of one injection?

THE WITNESS: But I don't know if that
25 one, when it settles, does it get thick down at the

bottom, this substance?

THE COMMISSIONER: Yes.

MR. ARMSTRONG:

Q. I am sorry --

5 A. I hate to ask the questions.

Q. Well, that's all right.

THE COMMISSIONER: Well, if you let it stand there you will see that the saline solution rises to the top and what is left at the bottom is sort of a powdery-white substance.

10 THE WITNESS: I have also seen a substance it would sort of become more like a -- you would have to stir it up. You had to really shake it.

THE COMMISSIONER: That's what this is.

15 MR. ARMSTRONG: That's in fact what I just did. And as the Commissioner has pointed out that if this is sitting straight and settles you will have a thick powdery or gooey stuff at the bottom and the top layer will be a clear watery-looking liquid, although a bit whitish?

20 A. It sounds right.

A. It sounds right.

5

Q. It sounds right. Okay. You mentioned that the bottle didn't quite look like this because of the way the top is here, and of course this top has got some masking tape put on it, but usually it's just a metal cap?

A. A metal cap. There would be a metal cap like that with the --

Q. With a rubber --

10

A. Rubber compartment to put the needle in the syringe, but it has been four or five years, but my recollection was the bottles were a little bit taller than that one but maybe that was the combination one.

15

Q. All right. And during the course of your throwing career, did you have occasion to meet a Canadian athlete by the name of Bishop Dolegiewicz?

A. Yes, I've known Bishop since 1971 or 2.

Q. And in 1971 or 2, you would be in high school?

A. 14, 13 and in high school, yes.

20

Q. And how would you have met him at that time? Was he in Toronto at that time?

25

A. Yes, he was getting ready to go to the University of Texas as in Austin on a scholarship. He was three or four years ahead of me in high school. He was sort of the hero of the high school throwers I suppose.

He was the guy we looked up to.

Q. All right. And when you were in Texas at SMU, was he also for a period of time in Texas?

A. I believe he was in Texas until about 5 1974 or 5 when he moved to Montreal to train for the Montreal Olympics, but he also came back to Texas in 19 -- he actually came to Dallas to train for the 1980 Olympics. Training with us, so he was there from at least January of 10 1980 for six months or so. He had spent a lot of time in California too during that stretch of time. He moved around a lot.

Q. All right. And you first went on the national team when, in 1978 for the Commonwealth Games?

A. Yes.

15 Q. And was Bishop Dolegiewicz on the national team at that time?

A. Yes, he was Canada's best shot-putter at that time. He just set the Canadian record that year too.

20 Q. All right. And so I take it he would have been part of this, what I call, fraternity of throwers at the same time then that you were from '78 forward?

A. Yes. Bishop and I were on the national 25 team together essentially from '78 to '84, and then his

career started to wind down a little bit. He was a little bit older than I was. We were very close friends during that period. We traveled the world together.

He was better than me for many of those years until the -- he was a shot-putter mostly. He was a very good discus thrower until he hurt his elbow, and he actually held the Canadian record for a period of time. We traveled together and we had a good relationship. We had been around the world and we were throwers together, and when he came to Toronto, he would tend to train with me and my group of friends that I trained with.

Q. And did you ever become aware of whether or not he took steroids?

A. Yes, he took steroids.

Q. And have you ever over the period of years injected him with steroids?

A. Many times and he has injected me many times.

Q. All right. And without trying to put too fine a point on the date, when would you have had occasion to inject him and when would he have had occasion to inject you?

A. I would say any time between '78 and '84. During track season or when we were on trips together, we were living -- one time he lived in Dallas

and lived about two minutes away from me.

THE COMMISSIONER: What steroid, what injectant was being used? Still that water-based Dianabol?

5

THE WITNESS: No, at that time when that came out -- this is from '78. It could have been Deca-Durabolin, testosterone, numerous drugs.

THE COMMISSIONER: Where did you get those drugs that you shared with Mr. Dolegiewicz?

10

THE WITNESS: It wasn't really sharing. You had your own, and out of convenience, you would be on a trip somewhere and you'd say Bishop, can you give me a shot or he would ask me.

15

THE COMMISSIONER: So you each had your own supply?

THE WITNESS: Yes, I never -- Bishop and I never really talked about our personal usage, and it was part of the -- he is one of the few guys that probably wouldn't have because he was a competitor of mine. I still kept a little secrets from him, but he --

20

THE COMMISSIONER: But I think you said he injected you. Did he know they were steroids when he injected you?

25

THE WITNESS: Oh, definitely. We knew exactly what was --

THE COMMISSIONER: And you injected him knowingly with steroids?

THE WITNESS: Yes.

5

MR. ARMSTRONG:

Q. And was he particularly knowledgeable about steroids?

A. Yes, very knowledgeable. He had done a lot of research and reading into it. He was the person to contact about it. A lot of the top throwers around the world would talk to him about it.

Q. Would people go to him, for example, for advice about clearance times, cycles, that kind of thing?

15

A. Many people would. I remember, for example, Charlie Francis when he first started to get interested in all of this in the early eighties, I was the thrower-in-residence, shall we say, in Toronto and he would phone me constantly and ask me about this and that and this, and I would go Charlie, phone Bishop. I don't know. He is the man that would know. I don't know. I just didn't get -- after I did my initial period of research, I kind of just left it alone.

20

Q. All right. And in 1981 in Venezuela, there was a track meet and there were a group of throwers

25

5

there, and we heard some evidence from Mr. Francis that a group of throwers were sitting in a hotel room and that Mr. Eldridge, who was then - and I always forget the precise office - but he then was either the president or the executive director position of the Canadian Track and Field Association, he came into the hotel room and made some complaint to a group of throwers that they had been spending their money in the local pharmacies buying steroids, and were you part of that group?

10

A. I remember Mr. Eldridge coming in and making that comment. I don't remember anything else about what my -- I heard what Charlie said I said, but I had no reason to disbelieve that I made that comment about "if you'd got us our nutritional supplement or \$100 a month then I wouldn't have to buy this cheap stuff," but we definitely had gone out to the pharmacies in a town called Puerto Ordaz in Venezuela. It's in the middle of the nowhere.

15

THE COMMISSIONER: You said you had not?

20

THE WITNESS: We had been going to the pharmacies.

THE COMMISSIONER: Were you buying steroids there? Did you buy steroids in Venezuela?

25

THE WITNESS: Oh, you can buy them over the counter definitely. I can't recall if we were successful.

5

I think it might have been a case where they said they could order them for us. They didn't have any in the store. More than likely, we were successful in getting some anti-inflammatories, things like that, which is something we always needed because we were always sore all the time.

THE COMMISSIONER: All right.

MR. ARMSTRONG:

10

Q. And again moving on to 1983. Did you compete in the world championships in Helsinki?

A. Yes, I did.

Q. Did Bishop Dolegiewicz?

A. Yes, he did.

15

Q. And was there a situation that you can relate to us involving Mr. Dolegiewicz taking some Dianabol tablets to the 1983 world championships?

20

A. Yes, he brought a large container full of Dianabol, and I remember seeing it in our room. We roomed together part of the time we were in Helsinki, and it was a large container and it had a label "To be used as directed" and there had to be thousands in this bottle and I got a kick out of that.

25

That's the kind of sense of humour we had at that time, but he was trying to sell them to other

athletes, and I understand that he was undercut by the Russians who were also trying to sell them at the same time.

Q. All right. And did you know what the
5 source of those Dianabol tablets was?

A. I don't know for sure, but I understand it was -- I was told that he was getting them from a pharmacy in Austin, Texas, and the name escapes me. Now you may be able to help me, Mr. Armstrong, but there was a
10 pharmacy down there that --

Q. I remember the name at one time, but I don't think anything turns on it.

A. Nothing turns on it, but there was somebody down there. Actually I remember. The other
15 thing is I know that Mike Spiritoso, for example, was very upset with this pharmacist because Bishop set up a purchase for Mike Spiritoso to go through him and the guy never came through.

The pharmacist never sent the stuff to Mike and Mike was upset about that, and I think he actually went to the Texas relays, which are held in Austin, and tried to find this pharmacist to try to get what he had paid for.

THE COMMISSIONER: In any event, you didn't
25 deal directly with the pharmacist yourself?

THE WITNESS: No, I never did.

THE COMMISSIONER: Whatever was told you --

THE WITNESS: I never did, no.

5

MR. ARMSTRONG:

Q. Then, Mr. Gray, there was one other incident that I wanted to ask you about. I'm sorry I'm moving you back in time to Italy --

10

THE COMMISSIONER: Did you buy any in Helsinki from him or from the Russians?

THE WITNESS: I didn't, no. I didn't need any. I didn't buy them from Bishop. I kept it secret, what I was up to, from Bishop, anyways.

15

MR. ARMSTRONG:

20

Q. All right. Then in 19 -- I want to take you back to 1981, I believe, to Venezuela, and if I have this date wrong, I'll check it at the break and correct it, but you may be able to help me, but I believe it was 1981, again Venezuela. Angella Issajenko testified that when she was at the meet in Venezuela in 1981, that she received an injection I believe of testosterone from Bishop Dolegiewicz, and do you have any knowledge of that?

25

A. I remember that it was -- we were in Caracas in a hotel room in Caracas, and --

Q. Have I got the year right?

5

A. '81, yes. It was the World Cup trials in Venezuela. I believe it was in August, sometime late in August. It was near the end of the season, and I remember Angella came up to probably Bishop and myself. Jack Harkness* was there too, and said "I'd like to come down and get a shot of testosterone" and Bishop said "come on down. Any time you want, we'll be in the room," and she came down.

10

15

And both Jack and I were there, and Bishop had kind of a cubicle room within a room, shall we say, in this hotel room, and she arrived with the testosterone and they went into the other room to administer the shot. I didn't actually see the shot, but she went in there to get a shot of testosterone.

Q. All right. And the incident involving Mr. Larry Eldridge that I referred you to, is that the same meet, the World Cup trials in Venezuela in 1981?

20

A. Yes, but it was in the town where it was. We were staying in a small town in Venezuela.

25

Q. All right. Then, Mr. Gray, I want to take you to March of 1986, and did you have occasion in about March of 1986 to receive either a telephone call or be approached by Charlie Francis to arrange an injection for Ben Johnson?

A. Yes, it was actually down at the track at York University. He came up to me. I couldn't tell you the date of it because I saw Charlie everyday at that time.

5

It was sometime in March because Dr. Astaphan was on holiday, and Charlie came up to me and said would you mind giving Ben a shot. I said no, no problem. Just tell him to come over. To give me a call and make sure he comes over during my soap opera time because I was quite into one of my soap operas. Not much else to do but wait for training.

10

In any event, Ben called me up and arranged to come over one day. He came over before going to the track. I remember it was in early afternoon. He arrived at my apartment. I was living up around Jane and Sheppard at that time so it was very close to the track. And he brought two containers with him. One with a white substance in it, very much similar to that one there, 117A, Exhibit 117A, and one with a red substance, the inosine mixture.

15

And he brought a syringe and he proceeded to take it from the red bottle first and took about a cc and then he took about a cc of the white stuff and mixed it together, made sure there was no bubbles. He pushed a little bit out of the tip of the needle to make sure there

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25

was no bubbles and then handed it to me and I administered it to him and he left shortly thereafter.

Q. And he testified here on either Monday or Tuesday, I believe it was Tuesday, and I put what I believed your evidence was going to be, and I think I put it to him reasonably accurately. I think pretty close to just what you've said, and one of his comments was he said "I would not know how much to use or how much to take," and really I think he was giving the indication he wouldn't know how to do this mixture, as you have described it, and from your description of it, did he appear to know what he was doing?

A. He definitely knew what he was doing. He measured it out exactly and made sure there was no bubbles in it, which is something that's important.

THE COMMISSIONER: I think he also said that he didn't take the bottle with him at all. If he gave an injection, it was something that Francis gave you to give to him.

THE WITNESS: I wouldn't have even had the bottles on my premises at that time. I was getting them from Astaphan, and I did later in June.

THE COMMISSIONER: But he brought his own equipment with them?

THE WITNESS: He brought everything with

him and he knew exactly --

THE COMMISSIONER: His own bottle of the milky-white stuff, we've been calling it?

THE WITNESS: Yes.

5

THE COMMISSIONER: One bottle of what I think is an inosine-vitamin B12 mixture with him.

THE WITNESS: He had both of them there and he knew what he was doing.

10

THE COMMISSIONER: And he drew it out himself?

THE WITNESS: I even remember joking with him saying Ben, you do everything else, why don't you learn how to give yourself a shot. Then you wouldn't have to run around town doing this.

15

MR. ARMSTRONG:

Q. All right. Then, Mr. Gray, I wanted to ask you about a conversation that you had in August 1988 with Mr. John Mumford.

20

A. Yes, John Mumford was the former coach of Angela Bailey, and I'm not sure. They were boyfriend-girlfriend for a period of time. I'm not sure if they still are, but he called me up at my office sometime after the nationals in August of '88 and inquired whether or not I could help get him some growth hormone

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because Angela, as he put it, something like "Angela just got her butt kicked again. I want to give her the opportunity to get on a program" or something like that and --

5

THE COMMISSIONER: Is Mr. Mumford going to be called as a witness?

MR. ARMSTRONG: Yes, Mr. Mumford is going to be called as a witness.

10

A. I told him, I suggested that he contact Peter Dajia because he is still connected in the States, and Peter -- he didn't know Peter so he asked me if I would make an introductory phone call, type of thing, and I ended up doing nothing about it in the end. I didn't make any phone calls for him. I spoke to John about a week later and said "look, I can't help you".

15

Q. And that really was the end of the incident? You never did anything about it and so far as you're aware, he didn't do anything about it?

20

A. As far as I know. I don't know what John was up to after that.

Q. All right. Then, Mr. Gray, I wanted to --

25

THE COMMISSIONER: It's clear that you didn't get him any supply, and as far as you're aware, you

don't know whether he got it from anybody else at all?

5

THE WITNESS: All I know is I had two conversations with him and that was not the whole conversation where we had known each other for eight years and we not only chatted about --

10

THE COMMISSIONER: It was part of a longer conversation, was it?

15

THE WITNESS: A longer conversation. He was asking in some ways something about advice about -- would it be any good to get Angela Bailey on this stuff and I said I don't know, it's kind of late now, John. You should have been thinking about this months ago, kind of thing, if you were going to do it. And we talked about other things too. He is a very successful entrepreneur-businessman and he has got some interesting businesses which I asked him about and checked up on the status of.

20

THE COMMISSIONER: He was also coaching at that time, was he?

25

THE WITNESS: I don't believe he is coaching.

THE COMMISSIONER: Was he at that time?

THE WITNESS: No, he did coach Angela for a number of years, and then due to business pressures, et cetera -- I'm not really sure what happened, but he did --

he wasn't coaching Angela at the time but he's still very close to her, I understand.

THE COMMISSIONER: I see.

5

MR. ARMSTRONG:

10

Q. All right. Then, Mr. Gray, you were the subject of a positive test at the national championships in June of 1986, as you indicated earlier. We have already had some evidence from Peter Dajia and also Michael Spiritoso about their experience following similar suspensions at the same time.

15

Particularly Mr. Dajia has told us that you represented him in what I might call the aftermath of that suspension, and I want to take a moment or two and ask you some questions.

20

First of all, we have heard some evidence about an appeal procedure that was taken through, it would appear, the auspices of the Ontario Track and Field Association and that there was a hearing in December of 1986 presided over by Mr. Bruce Savage?

A. That's correct.

25

Q. And we have had marked in our proceedings here as Exhibit 141 the actual decision of Mr. Savage following that hearing. One of the things, Mr. Gray, that is stated in the decision, which is Exhibit

141, is that you and the others testified, and I just wanted to clarify that because, in fact, you have told me that you did not testify at that hearing?

A. No, I didn't.

5 Q. You did not give evidence under oath?

A. No one was under oath and I didn't give evidence. I was representing them. I asked the -- shortly before I went into the hearing, I decided that I would like to be bound by the results of the hearing.

10 At first I didn't care. I was just going to represent Peter Dajia and Michael Spiritoso, but then I decided I thought I had a good crack at winning so I thought geez, if I'm going to win, I might as well reap the benefits of winning if I get the suspension rescinded, 15 so I didn't give any evidence. I just asked the questions.

20

25

5

Q. All right. And the report, Exhibit 141 starts, out by saying the following is the report of the Committee to Investigate the allegations of drug use by Robert Gray, Mike Spiritoso and Peter Dajia. And then part way along on the first page of the report it says:

"Mr. Gray then called his witnesses who testified to the procedures followed at the collection center. Finally the accused testified in their own defence."

10

And that simply, as far as you are concerned is just not an accurate statement?

15

A. My recollection was that I called two witnesses with respect to the bedlam in the doping collection center, the sample center. And I called Peter and Michael themselves to give evidence on their own behalf.

20

Q. All right. Now, the issue -- one of the issues and perhaps the primary issue that seem to percolate up during the course of this committee hearing was access to the information upon which Dajia, Spiritoso, and, indeed, you had been found to be positive for the drug 19-nortestosterone, I guess it was, was it?

A. That was what I was found positive for, yes.

25

Q. Yes. Did you, indeed, either through

this proceeding or indeed through a court proceeding that your counsel had taken ever in fact receive the actual test results?

5

A. To this day I have not yet received them.

MR. ARMSTRONG: All right. Now, your counsel and you yesterday provided me with your copy of this decision which I have referred to and which has been marked, Mr. Commissioner, as Exhibit 141.

10

Mr. Gray had attached to his own copy a covering letter addressed to the Canadian Track and Field Association which I think would be of assistance for you to have as part of the record here. And, indeed, I would propose to mark it as an exhibit, if I may.

15

THE COMMISSIONER: Go ahead.

THE REGISTRAR: It will be 194, Mr. Commissioner.

THE COMMISSIONER: This is the letter.

20

MR. ARMSTRONG: I would like to just pass this out to other counsel.

--- EXHIBIT NO. 194: Covering letter from Mr. Gray.
to the CTFA

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MR. ARMSTRONG:

Q. Mr. Gray, if we could just take a moment, perhaps you would just read this in to the record for us.

5

A. Certainly.

THE COMMISSIONER: This is a letter from Mr. Savage?

MR. ARMSTRONG:

Q. From Mr. Savage, as chairman of the Investigation Committee, dated December 22, and addressed to the Canadian Track and Field Association, and also to you, Spiritoso, and Dajia?

10

A. We all received copies of it.

15

Q. Yes.

A. Well, I don't have a copy. I would be happy to read it.

20

Q. Well, that's not very good.

A. Thank you.

"After hearing the evidence presented by all parties to the matter and after due consideration of same, the Investigation Committee has decided that prior to rendering its decision and report it would like to have the laboratory test results

25

reviewed and interpreted by an independent third party.

The Investigation Committee therefore requests that the Canadian Track and Field
5 Association arrange to obtain for the Investigation Committee the test results on each accused's sample "A" (both results) and sample "B" in source document form.

We would suggest that this be co-ordinated through the Chairman as it is our desire to render our decision and report prior to 5 p.m., 9 January, 1987 we would request a prompt reply to this request.

Dated at North York, this 23rd day of
10 December, 1986.

R. Bruce Savage, Chairman,
Investigation Committee." signed it.

Q. All right. So, you have indicated a moment ago when I asked you that to this day you have never received the test results. I take it so far as you are aware, the Canadian Track and Field Association has not received the test results; is that so?

A. As far as I know. And I understand they requested same from the Sports Medicine Council of
25 Canada and that the Sports -- I think they may have -- I

might be getting confused here. I heard it from two different sources, Bruce Savage and Wilf Wedmann.

I think they made a request to Dugal, Dr. Dugal in Montreal. Dugal said, look, my contract is with Sports Medicine Council of Canada. They have to advise me to release this information. And the word I got was that Sports Medicine Council of Canada refused to allow him to provide the information that we were seeking and had been seeking for six months at that time.

10 Q. And, Mr. Gray, it is obvious, although Mr. Savage was taking the position at this time that when he sent this letter that he wanted the results before the decision was rendered, obviously the decision was rendered without the benefit of the results?

15 A. As far as I know he rendered the decision without the results.

Q. All right.

A. It says so, in the decision, too.

20 Q. Yes. Then what in your case was the penalty for having tested positively in June of 1986?

A. It was a lifetime suspension that you could appeal for reinstatement from in 18 months.

25 Q. And that lifetime suspension was rendered by whom? The Canadian Track and Field Association?

5 A. Yes, was the -- and also I believe the IAAF, the International Amateur Athletic Federation. It would have been in conjunction with the two bodies. The CTFA would report to the IAAF of our positive finding and inform them that we were suspended for life and they would follow that.

10 Q. The 18 months would have taken you through to about the end of December 1987. And we have heard from Mr. Dajia that you indeed began the process of

15 the application for reinstatement in around the end of December '87-early January '88?

15 A. I believe I wrote a letter to Mr. Wedmann, who was the President of the Canadian Track and Field Association on December 16, 1987, requesting that we wanted to appeal for reinstatement under their rules.

 But there was some problems with which body to go to. The Ontario Track and Field Association or the Canadian Track and Field Association, and that took some time to sort out.

20 MR. ARMSTRONG: If I might ask you, Mr. Commissioner, just to take our morning break a few minutes early. I have some more paper that I am going to put to Mr. Gray that I would like to just organize.

25 THE COMMISSIONER: We will take a break, but I would like to clear up something now. This

conversation you had with Mr. Mumford was when?

THE WITNESS: Sometime after the nationals last year, last year's nationals.

THE COMMISSIONER: August of '88.

5

THE WITNESS: Yes.

THE COMMISSIONER: '88?

THE WITNESS: Sometime before they went away to the Olympics.

THE COMMISSIONER: Nothing came about as a result of the conversation?

10

THE WITNESS: Not -- not at all.

THE COMMISSIONER: So that even from that conversation with you and Mr. Mumford would not be evidence that Ms. Bailey had done anything wrong?

15

THE WITNESS: There is nothing --

THE COMMISSIONER: As far as you know, nothing transpired as a result of the conversation as far as Ms. Bailey actually getting the growth hormone?

20

THE WITNESS: No, as far as I -- I don't know anything about her getting anything.

THE COMMISSIONER: Was the growth hormone actually banned before the Olympics this year?

25

THE WITNESS: I believe it was, but I don't think you can detect it, so, it doesn't make much difference.

THE COMMISSIONER: Well, it's been added to
the list.

5

MR. ARMSTRONG: I don't want to get into a
unseemly argument with Mr. Gray as a witness here to help
us in this important task of yours, but my observation is
this, Mr. Commissioner, for what it's worth is, that there
seems to be a view among track and field people generally
that growth hormone was banned. Our research has led us
to conclude --

10

THE COMMISSIONER: It was not banned but it
is now --

15

MR. ARMSTRONG: -- that in fact growth
hormone never was banned. And as recently as February of
'89, when we started this track and field phase, I
confirmed with the Sports Medicine Council of Canada that
indeed it is not banned.

THE COMMISSIONER: I think it is now, isn't
it? I think it has been added.

20

MR. ARMSTRONG: Well, I was advised that
some steps were going to be taken.

THE COMMISSIONER: You are in February, I
am in June, it has been added.

MR. ARMSTRONG: I am sorry?

25

THE COMMISSIONER: I think it's now on the
list.

MR. ARMSTRONG: All right.

THE COMMISSIONER: All right. We will take
a break.

5 MR. ARMSTRONG: If I can could just say one
other thing following, just in fairness, because I realize
that a lot of public attention focusses on the lives of
some of these athletes.

10 Ms. Angela Bailey is going to be called, Mr.
Mumford is going to be called, and I should tell you in
fairness that I expect the evidence will be that from them
that Mr. Mumford did not obtain any growth hormone, nor
any other substance to give to Ms. Bailey, and that her
evidence will be that she never got or took any.

15 And I think in fairness I should make that
clear that that's what I expect their evidence will be.

THE COMMISSIONER: We will take a break
now.

20 --- Short recess.

25 --- Upon resuming.

THE COMMISSIONER: All right, Mr.
Armstrong.

MR. ARMSTRONG:

5

Q. Mr. Gray, perhaps I should just clarify one thing. You indicated that your suspension in June of 1986 was a lifetime suspension and at that time the penalty under the IAAF rules, adopted by the CTFA, was for a first offense automatic lifetime suspension with the right after 18 months to apply for reinstatement?

A. That's correct.

10

THE COMMISSIONER: To whom would you apply for reinstatement, the CTFA or the IAAF?

THE WITNESS: I applied to the CTFA.

THE COMMISSIONER: That would be the procedure, would it?

15

THE WITNESS: Well, there was some question about who actually suspended us, and that's why it took us about two months to sort that out.

THE COMMISSIONER: Did you get a formal notice of suspension, anything in writing?

20

THE WITNESS: I did get a letter at one point from the CTFA, shortly after -- a number of letters shortly after the actual testing saying that you are suspended.

25

THE COMMISSIONER: But following up Mr. Savage's letter and your own request, you never did get the results from the lab?

THE WITNESS: I have never got the results, never.

THE COMMISSIONER: Is that the practice as far as you know those results are never released to the 5 athletes?

THE WITNESS: I understand that there was a weightlifter by the name of Glen Dodds who went through the arbitration process that the Sport Medicine Council has in place. And he was successful in his appeal on very 10 much similar grounds that I was forwarding in my hearing, the technical defence.

THE COMMISSIONER: Did he get the results?

THE WITNESS: He did get the results from Dugal's laboratory.

15 THE COMMISSIONER: All right. Thank you.

MR. ARMSTRONG: Mr. O'Sullivan might just assist to complete the record on that issue.

THE COMMISSIONER: Perhaps you can assist me. I am interested in the procedure.

20 MR. O'SULLIVAN: In 1986, Mr. Commissioner, I represented Mr. Gray in an attempt to obtain an injunction to set aside the suspension pending a hearing pursuant to what I then argued were the terms of his contract with the Canadian Track and Field Association.

25 During the course of that proceeding, I

requested, during cross-examination of a representative of the CTFA, that they provide us with the test results.

THE COMMISSIONER: Right. That is the working papers, not just the finding?

5

MR. O'SULLIVAN: Yes, the actual test results and a quantitative analysis as opposed to a trace analysis of the substances.

And that at the time had particular, we thought, impact with respect to the arguments we were
10 making.

Although an undertaking was received they would obtain and provide those to us before the injunction hearing, in fact they were never received. And, indeed, because of the exigencies of time, Mr. Gray's event I think was being held the week following the injunction hearing, we just could not delay it any longer. So, we proceeded without it.
15

THE COMMISSIONER: Thank you. Thank you,
Mr. Sullivan.

20

MR. ARMSTRONG:

25

Q. Then, Mr. Gray, just so again we have all of this in context bringing us right up to date so far as the penalty is concerned, I understand since your unfortunate involvement in 1986, the penalty has been

changed in that for a first offense for a positive test of steroids the penalty is now two years?

A. That's what I understand, yes.

Q. All right. That's the IAAF penalty?

5

A. Yes.

Q. Okay. Then, Mr. Gray, we heard from Mr. Dajia --

10

MR. BOURQUE: Mr. Commissioner, I wonder if I might interrupt Mr. Armstrong. I rise on a point of fact. While counsel are straightening out the record on the business of this -- the test results, I think one has to bear in mind there are different kinds of test results.

15

My information is that with respect to the submission just made by Mr. O'Sullivan, I am looking at the respondent's record on that motion for an injunction, that is to say the record filed by the CTFA. And it does include a Certificate of Analysis showing at least the trace analysis and whether or not the quantitative analysis or the graph readouts were ever obtained --

20

THE COMMISSIONER: I think what were being sought was what I might call the working papers. Is that what you were seeking?

25

MR. O'SULLIVAN: Quite so, that was the point I made, Mr. Commissioner, yes. The certificate was provided, but what we wanted was something that we could

have someone else look at.

THE COMMISSIONER: The working papers. We obtained those finally with respect to Mr. Johnson's and we have got all the graphs which --

5

MR. BOURQUE: I understand that.

THE COMMISSIONER: -- Mr. Armstrong has analyzed carefully and understands it all --

10

MR. BOURQUE: I just didn't want the record here to show that the undertaking was not satisfied entirely. We made our best efforts.

THE COMMISSIONER: I see. What was filed actually, the certificate?

15

MR. BOURQUE: What was filed was a letter from the Sport Medicine Council dated July 15, 1986, sent to Mr. Wilf Wedmann, President of the Canadian Track and Field Association in response to his request in an attempt to satisfy the undertaking.

20

THE COMMISSIONER: I see.

THE WITNESS: There's no arguments.

THE COMMISSIONER: Pardon?

25

MR. BOURQUE: It contains a Certificate of Analysis.

THE COMMISSIONER: Certificate of Analysis. And just gives the steroid found, the drug found; is that what it says?

THE WITNESS: It just names the metabolites, it doesn't give you a quantitative analysis.

THE COMMISSIONER: This was a metabolite of this particular steroid discovered in the urine, is that what it says?

5 MR. O'SULLIVAN: Quite so, Mr. Commissioner. My position was I wanted whatever they had.

THE COMMISSIONER: I understand.

10 MR. O'SULLIVAN: So that I could look at it.

THE COMMISSIONER: Okay. Thank you. It's just a matter of information for what the process is. Thank you.

15 MR. BOURQUE: The certificate does contain minimal information.

THE COMMISSIONER: Thank you.

THE WITNESS: Minimal is right.

THE COMMISSIONER: That clarifies it, Mr. Gray.

20 MR. ARMSTRONG: All right. Indeed the exhibit we now have from Mr. Savage would indicate that he was still looking for more information in December of '86.

THE COMMISSIONER: All right.

MR. ARMSTRONG:

Q. Then, Mr. Gray, Mr. Dajia told us about the time that was involved in bringing the question of your reinstatement forward with the Canadian Track and Field Association. He indicated that the matter was in your hands, but from time to time he did certain things himself.

THE COMMISSIONER: You mean the time involved for Mr. Dajia's reinstatement.

10

MR. ARMSTRONG: Ye s.

THE COMMISSIONER: I think you said for Mr. Gray's reinstatement.

MR. ARMSTRONG: I think I said for your reinstatement. I intended to indicate both.

15

THE WITNESS: We were both reinstated at the same time.

THE COMMISSIONER: All right. Thank you.

MR. ARMSTRONG:

Q. And in that connection, you wrote a letter to Mr. Ouellette dated April 6, 1988, is that so?

A. Yes, I did.

Q. I am just going to put in front of you a package of correspondence that I am going to ask to be marked. These go in reverse order of date --

25

THE COMMISSIONER: Thank you.

MR. ARMSTRONG: -- from the bottom up. We don't have copies for everybody, but I think we have sufficient copies for counsel.

5 And starting -- I am not going to go through in detail this correspondence, but looking first of all at the letter dated April 6, 1988, addressed to Mr. Ouellette. If we could have that marked as the next exhibit, and I just have a couple of questions for Mr. Gray in connection with that.

10

THE COMMISSIONER: Mr. Registrar, the number, please.

THE REGISTRAR: It will be 195, Mr. Commissioner.

15

THE COMMISSIONER: Thank you.

--- EXHIBIT NO. 195: Letter dated April 6, 1988
from Mr. R. Gray to
Mr. J.G. Ouellette

20

MR. ARMSTRONG:

25

Q. Okay. Then, Mr. Gray I take it what this letter does is set out what the status was of your application at that time and indeed is an encouragement, if I can put it that way, to Mr. Ouellette please process

the matter a long so that you and Dajia could get reinstated and as well Mr. Spiritoso; is that correct?

A. Yes. There had been some problems trying to figure out who had the jurisdiction to reinstate us.

Q. All right. Then I wanted in particular to draw your attention to some comments you make at the top of page 4.

It reads:

"It should also be noted that at the COA hearing into our Olympic eligibility, that I, in the spirit of cooperation and in an attempt to have the hearing committee understand the problems faced by high performance athletes and with the hope that they might lower their standards for Olympic participation, confessed to the past use of banned substances and tried to explain the rationale and pressures that went into the decision to use banned substances."

First of all let me ask you this, the Canadian Olympic Association obviously held some kind of a hearing to deal with your eligibility in regard to participation in both the Olympics and Pan-American games; is that so?

A. That is correct. It was held sometime in 1987. I don't have the exact date. It was April, May. It was Mr. Pound was the Chairman of that.

Q. What was the result of that hearing?

5 A. They denied our -- we were trying to say let us compete in the Olympics. I was basically saying -- well, actually, as a matter of fact, I said use me as an example, let these two young throwers who made a mistake go to the Olympics because it may be their only chance. And, you know, I could go through the whole hearing, but I essentially laid it on line, and showed them how the top 50 in the world -- in a sense I told them they have to take some of the blame, they set the standards so high.

10 15 For example, the Pan American Games in 1983, the standard for participation in the discus event was better than the Canadian record at the time. And I suggested to them that they should lower their standards to allow people to go -- they just make the standard, the Olympic standard. In any event, the --

20 THE COMMISSIONER: So, the Canadian standard was the COA standard for eligibility to compete at the Olympics, is that what you are saying?

THE WITNESS: Yes.

25 THE COMMISSIONER: Was higher than the

Canadian record?

MR. ARMSTRONG: Pan American Games 1983.

THE COMMISSIONER: Well, they run the --

5 THE WITNESS: They lowered it -- strangely enough, they lowered it for the 1984 Olympics to 64 -- it was 66.96, you know, I am not exact, in 1983 to participate in the Pan Americans, which most people would say would be a lowwe class competition, but the Olympics they lowered the automatic selection level to 64-something.

10 THE COMMISSIONER: Which was higher than the Canadian record?

15 THE WITNESS: No, at that time it was just less than the Canadian record. That was the year I set the Canadian record. In response -- I wanted to make sure I made the Olympic team. I had to throw the Canadian record to make sure I was on the Olympic team.

20 In this hearing, my understanding of the situation is that the -- this Canadian Olympic Association holds a hearing every time they have one of these allegations made against one of the athletes into their eligibility for the Pan American Games and the Olympic Games.

25 You know, I understand their policy at the present time is that you are banned for the Olympiad.

From the time you get caught you miss the next Olympiad. You are out for it could be two years or it could be four years.

5

MR. ARMSTRONG:

Q. That's what happened in your case?

A. In our case we were caught in '86 so we were out to -- they wouldn't let us compete in the '87 Pan Ams or '88 Olympics.

10

Q. Then just moving down the page, on page 4 to the paragraph numbered 8, you say:

"In my own case, my wish for reinstatement is not so much so that I can compete again, but to allow me to become more involved in coaching and give something back to the sport, which in spite of the suspension, I still love and miss a great deal."

15

And I take it although I have not to this point in your evidence brought it out that indeed you have been coaching at least one young discus thrower at the present time?

A. Discus thrower, shot-putter, yes.

20

Q. All right. Then could I ask you, Mr.

25 Gray, to turn to a letter dated the 8th of June, 1988

addressed to you from Mr. Wedmann. And Mr. Wedmann says -- I am sorry, Mr. Commissioner I may have this letter mark as Exhibit 196.

THE COMMISSIONER: Thank you.

5

THE REGISTRAR: It will be 196.

--- EXHIBIT NO. 196: Letter dated June 8, 1988

from Mr. W. Wedmann

to Mr. R. Gray

10

MR. ARMSTRONG:

Q. Okay. Then just in the second paragraph of Mr. Wedmann's response to you he says: "With respect to your appeal, the Board approved forwarding it to the IAAF 'conditional upon a negative within 90 days' and conditional 'upon the agreement of the athletes to participate in the out-of-competition testing program for a period of two years'. We have forwarded the necessary documentation to the IAAF and now await their decision. I have been led to understand that the Council did not have time to address the appeals for reinstatement at their April meeting which

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20

25

immediately followed our Board meeting, but they are supposed to meet in June and deal with these matters at that time."

5 Indeed, we have heard from Mr. Dajia that the problem at the April meeting was that they did run out of time and they were taken up with dealing with the Zola Budd case, apparently.

A. That's what I was told.

10 Q. And then could I ask you, Mr. Gray, to turn up the next letter which is at June 13.

And, Mr. Commissioner, may I ask that it be mashed as Exhibit 197. It is dated June 13, addressed to Mr. Steve Findlay from Mr. Gray.

THE COMMISSIONER: I have it.

15 THE REGISTRAR: 197.

--- EXHIBIT NO. 197: Letter dated June 13, 1988,
to Mr. S. Findlay.
from Mr. R. Gray

20

MR. ARMSTRONG:

Q. And you acknowledge in Exhibit 197, the letter from Mr. Wedmann of June the 8th, and you say in the second paragraph:

25 "Please be advised that Mr. Dajia and myself

5 agree to the conditions as set out in Mr. Wedmann's letter and are prepared to provide samples for the required test at your earliest convenience. Mr. Spiritoso has retired from the sport of the Track and Field and is not interested in reinstatement at this time."

10 THE COMMISSIONER: Well, the condition was

that you have a negative test within 90 days, that was the condition?

THE WITNESS: That was the straight from the rules --

THE COMMISSIONER: Yes?

15 THE WITNESS: -- that we would provide them a sample --

THE COMMISSIONER: Upon agreement of the athletes to participate in out-of-competition testing program for a period of two years.

THE WITNESS: Two years, yes.

20 THE COMMISSIONER: Thank you.

MR. ARMSTRONG:

Q. You accepted those conditions and also I believe accepted the condition --

25 A. To pay.

Q. -- that was to pay \$500 to have the test done?

A. Yes. This was the only conditions as I understood that were on our participation at that time.

5 Q. All right. Then Mr. Gray, could I ask you to turn up a letter of August 2, 1988 from the Canadian Track and Field Association over the signature of Paul Dupres and this as I have indicated is dated August 2, 1988. And could it be marked as the next exhibit, Mr. 10 Commissioner.

THE COMMISSIONER: 198.

THE REGISTRAR: That will be 198.

--- EXHIBIT NO. 198: Letter dated August 2, 1988
15 from Mr. P. Dupres.

MR. ARMSTRONG:

Q. And I just want to read parts of this letter with you if I may Mr. Gray.

"This letter is to advise you that we have
20 formally received confirmation of your reinstatement by the International Amateur Athletic Federation for you to return to competition in track and field. Further to this reinstatement, I would also like to confirm receipt of a negative test result
25

from your urine sample provided on July 6,
1988.

As such you are officially eligible to
compete domestically and more specifically
in the 1988 Canadian Senior Championships
August 5-7 in Ottawa."

And further along:

"Further to your reinstatement, current Sport
Canada policy on athlete suspension as you
are well aware differs greatly to that of
the IAAF. Sport Canada policy clearly bans
an athlete for life on a first offense
which differs from the current two-year
suspension by the IAAF.

This difference in policy does affect your
eligibility to compete internationally for
Canada, as the Canadian Track and Field
Association does not wish to jeopardize its
relationship with Sport Canada particularly
as it relates to eligibility to financial
and program support."

20

25

Q. Now, we have been through this before with other witnesses and in particular with Mr. Dajia. This letter clearly says you can compete domestically and specifically at the upcoming nationals in Ottawa August 5 to 7. What in effect did that mean apart from being able to compete at the nationals? Where else could you compete according to this reinstatement?

A. I believe, you could compete in Canada, and I believe you could go and compete on your own internationally, but what it is telling us is that we can no longer compete for Canada because of Sport Canada's policy with respect to funding. They can't spend any money on us, and this was completely contrary to what my dealings with Wilf Wedman on this point were.

He had told me that it was merely a question of budget and handling the budget in a proper way so they wouldn't use the money they had received from Sport Canada on us, that we would come back as full participants in the sport which meant we could compete on international teams for Canada again.

That was my understanding of Wilf Wedman, and actually, in his letter to me of June 8th, you can see in the last paragraph where he notes:

"Rob, I hope the news of the IAAF will be positive and the test results negative so we

can all put this behind us, and all three of you can again be full participants in our sport."

So when I received this letter from Mr. Dupre, I was
5 somewhat shocked.

THE COMMISSIONER: It goes on to say, "The only relief from life suspension is through direct appeal to the Minister of State."

THE WITNESS: Yes. That's what I did.

10

MR. ARMSTRONG:

Q. We're going to come to that in a moment. Mr. Dajia, as we know, got a similar letter, and we know that he went to the nationals on August 5th to 7th 15 to compete. Did you also go to the nationals and compete?

A. I ended up competing. Yes, I was there.

Q. You were not in active training last summer?

20 A. No, I wasn't. I just went up to watch my athletes compete and decided to throw. I had myself entered and decided to throw just on a lark.

Q. And how did you do?

A. I won the bronze medal.

25 Q. Some lark.

A. Well, the competition wasn't too tough.

Q. All right. Then when you were at the nationals, you must have become aware of the fact that Dajia competed and he finished second?

5

A. Yes.

Q. In the discus?

A. No, in the shotput.

Q. In the shotput, sorry. One of these years I'll straighten out the two events.

10

And he told us that he, in fact, was invited to participate on the national team and leave, I think virtually immediately, to go on a European tour?

15

A. Well, my understanding was that he was selected by the throws coaches who would put his name forward to the head people at the CTFA. That was my understanding.

20

Q. All right. And of course that presented a problem for him because he got the same kind of letter from the CTFA as you did, that is that he would not be eligible to compete internationally for Canada.

And did you become aware of when you were in Ottawa at the nationals that he was presented with this problem and that the throws coaches had selected him to go on the national team to go on this European tour but --

25

A. I became aware of it. Actually, I had

became aware of the problem before upon my receipt of this letter and after running into Peter on the day I got to Ottawa.

Q. I see and I suppose --

5 A. We anticipated the problem.

Q. You anticipated the problem in advance because Dajia, being both good and young, was likely to be selected?

10 A. He had the best performance in Canada in the shotput last year and ended up coming second at the nationals, so he was the odds-on favourite to be selected or at least his name put forward by the throws coaches anyways.

15 Q. He has told us that when he was in Ottawa, he participated in a discussion that took place at a picnic table near, I believe it was, I may have this wrong, but it was near a tent and I believe it was a media tent?

20 A. Actually it was a trailer. It was a media trailer.

Q. A trailer?

A. Yes.

Q. And were you present at that discussion?

25 A. Yes, I was.

Q. And who was there?

A. Bruce Savage, Paul Dupre, Jean-Guy Ouellette, myself, Peter and Casey Wade was, who worked for the CTFA at that time. I believe he has left
5 recently.

He was sort of hanging on off the side. He was not really involved but he was -- I think he was waiting to be summonsed to be given some instructions or something like that, but he wasn't involved totally.

10 Q. Mr. Gray, what is your recollection of what was said during the course of that discussion?

A. Well, at first when Peter was still there, Mr. Dupre explained to us what had happened and why this letter came about, had come about.

15 He explained to me that there had been a meeting in June, a conference, a doping conference which was I think sponsored by Sport Canada, which I think all the leading athletic nations of the world sent representatives, and he explained to me that the CTFA had been approached by a representative of Sport Canada at that time and he was told, the representative was told that if any of us were reinstated to the national team, they would have the -- Sport Canada would cut the funding to the CTFA, which of course was to the tune of probably
20 \$2 million a year.
25

That was the -- he explained, and I of course was somewhat taken back by that, but he explained that's why this letter had been written, to explain the situation. And he -- at that point I think Peter got very upset about it all, and I remember him making some comments to the effect that, "You guys don't know what I know. I can turn in the world's fastest man" and the word that sort of sticks in my mind about it all is he said "the meal ticket," something about a meal ticket, and other than that, it was a fairly long meeting.

Peter left shortly after making these comments, and I continued to sit there and try to work things out with Dupre, Mr. Dupre and Mr. Ouellette about our plans to try to get us reinstated through the minister, the sports minister.

Mr. Dupre advised me that he thought we had a very good chance to be reinstated by Mr. Charest, and I sent a letter the next day, as a matter of fact, to Mr. Charest requesting a reinstatement, and he -- I'm not sure how long the meeting was, but the part where Peter -- Mr. Dajia was there was very short. He was not there very long.

THE COMMISSIONER: He said he could turn in the world's fastest man or something like that?

THE WITNESS: Something to that effect.

THE COMMISSIONER: Unless what? Unless they did something?

THE WITNESS: Yeah, he was very upset about not making the team.

5

THE COMMISSIONER: He acknowledged to us in a sense he was threatening him.

THE WITNESS: Yes, I think that's what he was doing. That's what my --

10

THE COMMISSIONER: What was the reaction to the others present, do you recall?

THE WITNESS: They seemed to be a little taken back by it, but I -- it was just --

15

THE COMMISSIONER: Did they pursue it with him? Say, "what do you mean" or "who are you talking about" or --

THE WITNESS: No, my recollection is that he left shortly thereafter. He didn't stick around very much longer.

THE COMMISSIONER: All right.

20

THE WITNESS: He was very excited about this.

THE COMMISSIONER: Apparently.

THE WITNESS: Yes.

THE COMMISSIONER: That would be what,

25

August of '88?

THE WITNESS: I think August 7th. I had spent three days trying to arrange this meeting and trying to get everybody in one place at the same time. It's a very confusing --

5

THE COMMISSIONER: He rather blew up, I guess, in this heated discussion.

10

THE WITNESS: Well, he did, but I spent most of my weekend trying to lobby members of the Board of Directors to see it my way, that this was -- well, there has been a problem with Sport Canada and the CTFA has gone back for years, I believe, with respect to the funding.

15

Sport Canada likes to say they don't dictate what it's used for, but in reality they often tell the CTFA and I suppose other sporting bodies, for that matter, where the money is supposed to be used. And when -- I know for a fact that the CTFA, the people in the CTFA were always somewhat annoyed by being -- having to sort of play up to Sport Canada and get along with them. They were always talking about trying to become self-sufficient so they wouldn't have to need the money.

20

THE COMMISSIONER: Theoretically they are self-governing I think?

THE WITNESS: Supposedly, yes.

25

MR. ARMSTRONG:

Q. All right. Then Mr. Gray, on August the 8th, you appear to have written two letters. First of all one to Paul Dupre, and may I ask that this be marked as Exhibit 199.

5

THE REGISTRAR: 199.

THE COMMISSIONER: Thank you.

---EXHIBIT NO. 199: Letter written to Paul Dupre from Rob Gray dated August 8, 1988.

10

MR. ARMSTRONG:

Q. And then the second letter that you write on the same date is to the Honourable Jean J. Charest, dated August the 8th, and could I ask that it be marked as Exhibit 200.

15

THE REGISTRAR: 200.

--- EXHIBIT NO. 200: Letter to Jean J. Charest from Rob Gray dated August 8, 1988.

20

MR. ARMSTRONG:

Q. All right. Taking you, Mr. Gray, first of all to the letter to Mr. Dupre of August the 8th, Exhibit 199. You say -- I'm not going to read it all, but you say:

25

"Dear Mr. Dupre, I acknowledge receipt of your letter dated August 2, 1988, and confirm our conversation of August 7, 1988, at the Canadian Track and Field Championships in Ottawa."

5

Now the conversation that you're confirming on August the 7th, is that the one that took place at the picnic table near the media trailer?

A. I believe so, yes.

10

Q. All right. And then if I could take you down to the bottom of the first page, you say in the last paragraph:

"From my two years on the CTFA Board of Directors as the athlete's representative, I know that the problem of Sport Canada's dictating to the CTFA with respect to the CTFA's internal policy has been an issue of some controversy and discussion.

15

As the board is currently meeting, I would suggest that the issue of our eligibility for international competition be put before them so that this issue can be dealt with with some finality so that Peter and I can determine our next step.

20

I enclose a letter sent to the Honourable

25

Jean J. Charest appealing our lifetime suspensions,"

And then you go on in that paragraph --

THE COMMISSIONER: I see you call it
5 meddling, Mr. Gray. This came up also in Montreal. If Sports Canada are funding sports organizations and are very concerned about doping in sport, haven't they got an interest in seeing that the sports federations take a very serious view? I'm not saying life or two years, but why shouldn't they be interested in the policy of the
10 federations they're funding on doping?

I remember in 1984, I think Miss Hoffman wrote the weight lifter's federation, whatever name it is, and said look, unless you clean up your act, we're not going to fund you. What's wrong with that?
15

THE WITNESS: I see nothing wrong with that, sir, but the problem that I was referring to is not just about this. This is just the tip of the iceberg of what they're really doing.

I mean, they're trying to tell an
20 independent organization that two people that they have reinstated as full members of that association can no longer participate in something that that association supposedly controls the process over who is selected for national teams.
25

Now if the CTFA wants to spend the 30% of their budget that comes from independent sources or if I, for that matter, want to spend my own money to represent Canada if I qualify, why can I not do that? That's --

5

THE COMMISSIONER: Well suppose the CTFA, and I'm not suggesting this is the case at all, says we don't take this doping business very seriously and we'll give a month's suspension or a public reprimand but our people could still continue to compete. Shouldn't Sports Canada be looking at that, saying look, we're giving you all the money to run your organization but you've got to run it by taking a serious attitude against doping?

10

THE WITNESS: I see nothing wrong with that except, once again, --

15

THE COMMISSIONER: I'm not talking about the merits of your particular case, but I notice -- you may be right. I'm just exploring it, but I'm being critical of what you call meddling in the affairs of CTFA.

20

THE WITNESS: Well, the thing is they have done it over years. They have controlled it more than they let on.

THE COMMISSIONER: I see.

25

THE WITNESS: And the thing about it is is why this letter from Mr. Dupre was even more of a shock to me, was that in 1986 when Mr. O'Sullivan argued the

injunction application on my behalf, counsel on the other side was saying look, there is no connection between sport Canada, there is no financial connection. They give us the money, we do what we want with it. There is no governmental nexus; therefore, the Charter of Rights does not apply to these three athletes, or it was only myself at that time. So it was very surprising to see this actually in print. If I had this two years before, it might have changed some things.

10 THE COMMISSIONER: You might have won your case?

THE WITNESS: Well, I might have -- I think Mr. O'Sullivan is capable enough to have used it to great benefit, shall we say.

15 THE COMMISSIONER: You were returning to that letter of August the 8th to the minister?

MR. ARMSTRONG:

20 Q. Yes, and this, of course, is your application to the minister in the letter of August the 8th, is that so?

A. Yes.

Q. And let's just read part of it because it puts out your position and raises some of the questions
25 that you've just been discussing with the Commissioner.

Second paragraph:

"Mr. Dajia and I were recently advised by Mr. Dupre that as a result of Sport Canada's policy on drug use and doping control in sport, we, although fully reinstated members of the CTFA and IAAF, are not eligible to represent Canada internationally until our suspensions from eligibility from Sport Canada's Athlete Assistance Program have been lifted,"

And so on, and then you go on to say that you are now applying for reinstatement, and then at page 2, if I can read into the record or perhaps why don't you read it into the record, Mr. Gray, at page 2. Just read those first two -- or second two paragraphs at page 2.

A. The second two paragraphs?

Q. Yes.

A. "As you may recall, our suspensions came --"

THE COMMISSIONER: That's the first.

MR. ARMSTRONG:

Q. I was going to suggest you just read the second two paragraphs. Two and three.

A. "I have remained involved in the sport

as a coach, and I can advise that the suspension has succeeded in acting as a deterrent to others and as lesson to those of us involved. To punish us further by taking away the privilege of competing for Canada would be counterproductive and unduly cruel and harsh.

In my view, Sport Canada could now use our suspensions and reinstatement therefrom in a positive way by using us as examples of athletes who have rehabilitated themselves and use any of our future successes to display that performance can be attained without the use of performance-enhancing substances.

I advise you that as a condition of our reinstatement to the sport, that we provided a negative drug test three weeks ago and we also agreed to take part in the CTFA's out-of-competition random drug testing program which has recently been implemented. This program will empower the CTFA to drug test us without warning at any time."

Q. All right. And the rest of the letter
25 is now on the record and there and available for the

Commissioner and counsel to consider.

What was the result of your application for reinstatement for the lifting of the lifetime ban or whatever the lifetime ban is and means from Sport Canada?

5

A. The minister wrote me back saying they denied it and suggested that we think about reapplying in January of this year, and of course since then -- he sent that letter in September, shortly before Mr. Johnson's positive test in Seoul.

10

Q. Now, you indicated --

THE COMMISSIONER: Do you have a copy of the minister's letter?

MR. O'SULLIVAN: Of the minister's reply?

THE COMMISSIONER: Yes, his reply.

15

MR. O'SULLIVAN: I do not have it. Mr. Gray has it directly at his home I believe.

THE WITNESS: I think it's at my home.

THE COMMISSIONER: Would you supply that to Mr. Armstrong or Mr. O'Sullivan?

20

THE WITNESS: I will. It's around somewhere, yes.

MR. ARMSTRONG:

Q. Mr. Gray, you're coaching now how many athletes?

25

A. I just have one now.

Q. He is a discus thrower?

A. He is actually a better shot-putter
than he is a discus thrower. He does both.

5 Q. Now you have begun coaching him at a
pretty tough time, in a day and age when we have heard
from all the evidence we have heard, and indeed from you,
that the event that he is involved in at the highest
levels is involved with steroids.

10 If I was his father and I came to you and
said, "I want to know what advice you're going to give my
son," what advice are you giving that young fellow?

15 A. I told him to stay away from them. I
know better than anybody the consequences of having taken
the substances. The impact on my family and particularly
my wife has been very hard on us. We have been dragged
through it, and once again this time around. It has been
very tough on us, and my advice would be to any young
athlete to stay away from them, that you can develop
20 yourself naturally, shall we say, and that hopefully in
the future, that in this country at least, that I am
hopeful that what they are going to do is start supporting
the top three athletes and that way they can -- all you
need is time in the sport and you can excel, in my
opinion.

It's just that when you get these high standards put towards you, you start going geez, I know what everybody else is doing, but I'm hopeful that the way things are heading now, that these substances will be a thing of the past. I'm hopeful because you never know. I might turn 35 and want to do it again because I enjoy the sport so much and I love this sport and I want to stay involved as much as I can, as much as my time permits me.

5

So my advice would be stay away because if you get caught -- and it's not fair to the other athletes who are trying to make an effort, and I realize that now. It wasn't fair to some of the other people that I competed against, but I made a mistake. A long time of mistakes, but you get into it and you become obsessed with the sport, and I think you've probably seen that in some ways among some of the participants that have been up here.

15

Q. Thank you, Mr. Gray. Those are all the questions I have, Mr. Commissioner.

20

THE COMMISSIONER: Mr. O'Sullivan, do you have any questions at this stage?

MR. SULLIVAN: No, I don't, Mr. Commissioner.

THE COMMISSIONER: Mr. Bourque do you have some questions?

25

MR. BOURQUE: I certainly do, Mr.

Commissioner, but I would -- my position is that I am reluctant to go on today with this witness, and I would be prepared to speak to you and to your counsel about that, but it's a procedural difficulty and I wonder if I might 5 speak to you in your chambers.

THE COMMISSIONER: All right. Anybody prepared to proceed? Mr. Barber or Mr. Morrow?

MR. MORROW: Yes, I am, My Lord, if it's convenient to your Commission.

10 THE COMMISSIONER: We will just set Mr. Bourque down for a few moments. Mr. Morrow.

---EXAMINATION BY MR. MORROW:

Q. Thank you, my Lord. Mr. Gray, my name 15 is Morrow and I act for the Sports Medicine Council of Canada, and my questions are going to pertain to what Mr. Armstrong has described as the aftermath, namely that your positive test was I think declared in July of 1986?

A. July 4th.

20 Q. July 4th?

A. That's when I was informed anyways. I don't know when the actual testing was done.

Q. All right, and you've indicated to us 25 that you didn't get the test results as such. You did get the certificate of analysis of course?

5 A. We eventually received a certificate of analysis which -- I'm sorry, this is my memory serving me. It didn't have what we wanted, the quantitative analysis of the steroids in us. It did tell us how much caffeine or PH levels or something like that on it. I don't have it in front of me, but that's my recollection. It didn't have the information we needed.

10 Q. You didn't get the working papers immediately; is that right?

A. That's correct. I've never seen them.

15 Q. And I take it that you're familiar with the A sample and B sample procedures used by Sports Medicine to verify a positive test?

20 A. I'm familiar with what the lab does. There is an A sample and a B sample. I'm not sure if the Sports Medicine Council has anything to do with that aspect of it other than to split them up.

25 Q. Well, let me suggest to you that we do. That once an A test is proven to be positive, then it is held and the B test for confirmation, and that, in fact, took place in your case, sir?

A. Yes, it did.

 Q. And you had Mr. Coffield, I take it, as representative on your behalf?

25 A. Mr. Brian Coffield, yes.

Q. He appeared for the confirmation of the
B sample?

A. Yes, he did.

Q. And he was authorized on your behalf to
5 be there?

A. Yes, he was.

Q. And he made no protest, I take it,
about the procedures being used?

A. He was not advised that he could make a
10 protest because we had not received the material before
that test.

Q. Are you saying that he had protested or
not or they could not?

A. I'm saying that he did not know that he
15 could protest.

Q. So he did not protest?

A. We did not receive the materials from
the CTFA with respect to the actual procedures that could
be in place.

Q. Now the working papers you were
20 seeking, they would have documented your usage of anabolic
steroids, correct?

A. I don't know what they would document.
A positive test I would assume.

Q. Yes, positive test --

A. If they exist.

Q. -- for 19-nortestosterone, correct?

A. That's what they say. That's what I was told I tested positive for, metabolites of that drug.

5 Q. In 1986 you were using anabolic steroids, were you not?

A. Yes.

Q. You had been using them since 1977?

A. Not continuously, no.

10 Q. Well, on a regular basis?

A. Off and on.

Q. Since SMU in 1977?

A. Yes.

15 Q. In a relatively regular basis, on a regular enough basis?

A. Yes.

Q. In a covert manner?

A. A covert manner?

Q. Covert manner.

20 A. No, I was very open about it, sir. I told all my friends and my wife, everybody.

Q. But you didn't make it public knowledge?

25 A. No, I didn't put an ad in the paper or anything like that.

5 Q. And in fact you would have participated, would you not have, in seeing to it by reason of the cycles that we have considered and the clearance times in ensuring that you didn't test positive, correct?

A. That's correct.

10 Q. And in fact, in 1986, while I refer to it as being covert, you didn't want to be detected in 1986 either, did you?

A. No.

15 Q. I take it you never, in fact, appealed, Mr. Gray, under the Sports Medicine Council appeal procedures?

A. That's correct.

20 Q. And you heard it said -- in fact, I think it was your evidence -- that Mr. Dodds did appeal?

A. Yes, he did.

Q. And he obtained the working papers by means of that appeal?

25 A. That's what I understand. My understanding though was you could not appeal on the technical side of the test, which is what I wanted to appeal on, to go through the Sports Medicine Council. I did it on advice of counsel. I chose the way to go.

Q. Well, the motion that you brought

before Mr. Justice Montgomery, you didn't allege technical grounds, did you?

A. Technical grounds in what sense?

Q. Well, the motion that you brought, Mr.
5 Bourque referred to it, the motion you brought in the Supreme Court?

A. Yes.

Q. It was not based on technical grounds, it was based on denial of natural justice, was it not?

10 A. I believe so.

Q. You're familiar with that term?

A. Somewhat. Not as well as I would like
to be.

15 Q. Well, the long and short of it is that your application before Mr. Justice Montgomery was not based on technical grounds, is that right?

20 A. It was in a sense. It was based on seeking a hearing, I believe, but one of the things that was very important to our position was to have the quantitative analysis provided to us because we had some experts that wanted to review those documents so that there was a theory -- there is a theory, and I think it's being proven in animals in any event, that the substance that was found in me occurs naturally in the body.

25 It can occur, and actually Dr. Dugal

admitted that much to me at the hearing in December of 1986, that the small --

THE COMMISSIONER: I don't want to review the litigation which has already been dealt with by the court.

5

MR. MORROW: No, I won't, my Lord. My question is simply addressed to the basis of Mr. Gray's application to the Supreme Court. It did not allege, as I understand it, - of course we have the record and it speaks for itself - any suggestion of technical procedural difficulties of one nature or another.

10

15

20

THE COMMISSIONER: Yes.

MR. MORROW:

Q. That's right, Mr. Gray, you are not
5 saying otherwise, are you?

A. No.

Q. In fact, if the working papers had been
obtained and produced for you at that time, they would
have documented long-term usage of anabolic steroids,
10 correct?

A. I have no idea. I haven't seen them; I
don't know if they exist.

Q. Are you aware that they were produced
to the National Track and Field Association in December?

15 A. They were not produced to the --

Q. Not to you, sir, but to the Canadian
Track and Field Association?

A. I am not aware of that. I asked for
them to be at the hearing in December of 1986.

20 Dr. Dugal arrived at the hearing and
admitted -- at first he said that he did not have the
documents with him and that they were not prepared in any
event to be viewed by anyone.

And then by the end of my cross-examination
25 of Dr. Dugal, he admitted he had them in a briefcase next

to him and that I could look at that them. And that point I said what use would it do me to look at them. I wanted to have an expert look at them in July of 1986.

Q. Now, is that December 20, 1986?

5 A. That's when the hearing was, I believe,
was the date.

MR. MORROW: I am not quite sure what
turns on this, My Lord, and I won't spend much time on
this, but I have a letter dated December 10, 1986 to the
10 Canadian Track and Field Association enclosing the
so-called working papers described in the letter as the
quantitative results as per the request. I am not sure --

THE COMMISSIONER: Mr. O'Sullivan has
never seen this.

15 MR. O'SULLIVAN: I don't know what it is
relevant to Mr. Gray. It wasn't sent to him.

THE WITNESS: I don't know anything
about it.

20 MR. MORROW:

Q. Fine. Mr. Gray didn't get it. I take
it you never got the working papers as such?

A. No, I never have.

Q. The two throwers that I take it they
25 are throwers Mike Spiritoso?

A. Yes, and Peter Dajia, yes.

Q. And Peter Daija, yes, they are both
throwers?

A. Yes, they are.

5 Q. They are part of fraternity that you
were describing earlier?

A. Yes, they would be, yes, if they were
still --

10 Q. And they had been using anabolic
steroids, as well, I take it?

A. My understanding was they had been,
yes.

Q. Yes, over an extended period of years?

15 A. I really don't know how long they
had been using them?

THE COMMISSIONER: Well, we heard from both
of them, they --

THE WITNESS: They gave you the --

20 MR. MORROW:

Q. But you knew -- you knew that they were
on anabolic steroids in 1986, correct?

A. Yes.

25 Q. All right. When you appeared on the
20th of December, 1986, before the Commission that Mr.

Savage was taking, did you call them as witnesses?

A. Yes, I did.

Q. Did they testify as to their usage or non-usage?

5

A. We made -- we mounted a technical defence.

Q. Well, I am not sure you have answered my question. Did they deny using anabolic steroids?

10

A. I think they denied using the substance that was found in this -- the results that we had been given. They were told 19-nor-testosterone and testosterone. And to my knowledge that's what they told me they hadn't been using. They hadn't been using those substances.

15

Q. I am not following you. Are you saying you didn't ask them expressly whether they were using anabolic steroids, or not?

A. I think if I asked them, I can't recall. It was a 10-hour hearing with very few breaks.

20

If I asked them anything I think I asked them whether or not they had used the substances that had been found -- allegedly found in their systems, in this urine.

25

Q. Well, when you asked them that question you knew they had been using anabolic steroids, correct?

A. Yes, I --

THE COMMISSIONER: Mr. Morrow, what he was doing -- he asked them -- I think the argument was that we may have been taking steroids for years but you fellows made a mistake, you found the wrong one.

5 MR. O'SULLIVAN: That's quite so, Mr. Commissioner. And also Mr. Gray was acting as counsel for these gentlemen at the time.

10 THE COMMISSIONER: That's correct, he was acting as counsel. And he did say he asked them. I think we heard that from Mr. Spiritoso and Mr. Dajia on it that he denied taking the particular drug which they -- which the labs said was in his system.

15 MR. MORROW: I realize you have heard that evidence.

THE COMMISSIONER: Yes.

MR. MORROW: I think Mr. Gray was partially there as counsel and partly on his own behalf.

20 THE COMMISSIONER: No, I think he limited -- lawyers have a way of dividing their position you know.

MR. MORROW: I appreciate that, but I think he acknowledged in his evidence he received the benefit equally, namely that if they were vindicated, so would he --

5

THE COMMISSIONER: I think he's told us that. We have had that from Mr. Dajia himself as to what transpired. I don't think there is any suggestion that they admitted to the -- to Mr. Savage that they had been on steroid program for years. They did not.

MR. MORROW: Thank you.

10

MR. MORROW:

Q. Mr. Gray, I am unclear as to your point then. What is your point concerning the lack of the working papers until -- that you have never received. What is your point on that?

15

A. One of my defences, sir, was that substance that was found in me can be produced naturally in the body. I have heard that , I have read that in many -- a few places, shall we say, where -- and I have had discussions with a Dr. Mauro DePasquale about it who has written about this subject.

20

And it is a fact that in some animals, the animal equivalent to 19-nortestosterone is produced endogenously in the body. That's why it was very important for me to find out the quantitative analysis because if it was low then there is a possibility that the substance could have been produced naturally, or, I mean am not sure. I am not sure --

25

THE COMMISSIONER: Had you ever taken this
drug --

THE WITNESS: I have taken the drug, but
it was --

5 THE COMMISSIONER: Well, then the finding
on your case was consistent with your own experience?

THE WITNESS: Well, in a sense, but I had
taken it so far in the past that I couldn't really believe
that the substance had shown up in my system. And that's
10 why I wondered if there was another explanation.

MR. MORROW:

Q. Well, sure, one of them is that Dugal's
lab is able to go farther back in your history of usage
15 than you thought?

A. Very possible.

Q. Isn't that fair?

A. Very possible. Very fair.

MR. MORROW: Thank you, sir, those are all
20 my questions.

THE COMMISSIONER: Mr. Levine, do you have
any questions?

MR. LEVINE: I do have some questions

THE COMMISSIONER: Excuse me. Mr.
25 Armstrong's son is graduating today from high school and

he is a valedictorian of his class.

MR. LEVINE: Well, I will make sure I don't keep him.

THE COMMISSIONER: So, I am going to excuse
5 Mr. Armstrong for about half an hour.

MR. ARMSTRONG: All right. Thank you.

THE COMMISSIONER: All right. Go ahead,
Mr. Levine.

10 --- EXAMINATION BY MR. LEVINE:

Q. Good morning, sir, my name is Lorne Levine on behalf of Dr. Astaphan. Just a couple of short points, sir.

15 First of all in regards to your relationship with Mr. Ben Johnson, how long had you known him prior to March of 1986?

THE COMMISSIONER: How does this relate to Dr. Astaphan?

20 MR. LEVINE: Well, sir, I am getting to the point as far as or I would like to do is get to the point concerning whether this witness has any knowledge of Mr. Johnson's knowledge of steroids and able to mix his own substances.

THE COMMISSIONER: He's already told us
25 that. He said he drew -- you have already told us that.

He drew from two vials. Isn't that right, Mr. Gray?

THE WITNESS: Yes, he did.

MR. LEVINE:

5 Q. Yes. Did he discuss with you the contents of the vials? Did he mention any names of the contents?

10 A. He didn't mention any names. We did talk about it being good stuff and how he was getting very strong as a result of it. We discussed that sort of thing.

Q. Did he mention anything to you about possible side effects of the substances?

A. On that occasion, no.

15 Q. Had he ever mentioned that to you in the past?

20 A. I am sure at some point in time. I remember joking with Ben many times about one of the side effects being testicular atrophy, about having pea balls having --

THE COMMISSIONER: All right.

THE WITNESS: So, I mean I remember on occasion joking around with Ben about that.

MR. LEVINE:

Q. Would this have been prior to this time in March of 1986 when you injected him? This conversation that we are talking about?

5

A. More than likely, yes, because --

10

THE COMMISSIONER: Did he respond to that at all?

THE WITNESS: Oh, yes, he was joking around about it. He quite often joked about the sexual side effects, shall we say, of the drugs, in my presence.

THE COMMISSIONER: Of the steroids.

THE WITNESS: Yes.

MR. LEVINE:

15

Q. So, just to get to my point, my initial point, how long had you known Mr. Johnson prior to March of '86?

A. I have known Ben since 1977 or eight.

20

Q. And over that period of time had you had occasion to talk to him on more than one occasion about the possible side effects of the steroids?

A. I would believe so, yes.

Q. And did he ever seem overly concerned about the side effects?

25

A. No, he wasn't.

Q. When he came to your apartment in March of 1986 for his shot, was he carrying a bag where he took out the vials from, if you recall?

A. I really don't recall.

5

Q. Do you recall prior to that time ever seeing him with any kind of a gym bag or carrying case which contained steroids or other substance?

A. I have seen him many times with a gym bag, but I don't know what was in it.

10

Q. Fine, sir. And just another point in relation to Dr. Astaphan, I believe you indicated that you saw him for personal injuries from time to time?

A. Yes.

15

Q. And you were always satisfied with the care he gave you?

A. He was a very good doctor.

Q. And I believe your evidence was, sir, that you had heard the names Furazabol and Estragol?

20

THE COMMISSIONER: He never said he heard Furazabol.

THE WITNESS: Furazabol is something I heard after, I think. I never --

MR. LEVINE:

25

Q. After what that's what I wasn't sure

about?

A. After the Olympics in '88.

Q. What about Estragol, when did you hear
about that?

5 A. It's tough for me to say. I think I
may have heard that -- I am pretty sure I heard it before
the Olympics from Angella or somebody like that.

10 You see you have got to remember from June
of '86 through to August of '88 I wasn't involved in the
sport more than to show up once or twice, three times a
week to coach someone. And usually when I got there after
work, all the elite people had been long gone. I
didn't -- I mean I seen Ben two or three times in the last
two years.

15 Q. Can you recall hearing any specific
name of any substance from Dr. Astaphan himself?

A. Honestly I can't remember.

MR. LEVINE: Thank you, sir.

20 THE COMMISSIONER: Thank you. Do you have
any questions, Mr. DePencier.

MR. DEPENCIER: No, I don't, sir.

THE COMMISSIONER: Do you have any
questions, Mr. Pratt.

MR. PRATT: Yes, I do, sir.

25 THE COMMISSIONER: All right.

--- EXAMINATION BY MR. PRATT:

Q. Good afternoon, Mr. Gray, my name is Alan Pratt. I represent Charlie Francis.

You told us quite a bit about the fraternity of throwers including those on the international track and field scene. Apart from your various discussions with throwers, would you have or perhaps as a result of those discussions, would you have formed any assessment over the years of the extent of anabolic steroid use by elite sprinters in the international track and field scene?

A. Well, I would -- it's difficult for me to answer that because I wasn't that familiar with a lot of them, but from the ones I knew, the ones I, you know, was acquainted with, I would think that they were -- most of them were using it, using some kind of anabolic agent.

Q. You would have seen many of them in person at various track meets, I take it, and you would have seen their physiques?

A. Yes. Some of them were quite amazing.

Q. You would be aware of, I guess, the anabolic effect of anabolic steroids and the visual changes that they would cause, I take it?

A. Yes.

Q. And as a result of these observations you had a -- you formed the conclusion you have just given

us?

A. Well, yes, I would have. I formed the conclusion a lot of them were using them, but I don't know for a fact. I mean I wasn't close enough to that scene.

5

Q. Would that be -- we have had a lot of evidence about the group coached by Charlie Francis. I take it -- well, would your conclusion extend beyond that group?

A. Oh, yes, definitely.

10

Q. And beyond the Canadian sprinters in general.

15

A. Yes. Some of these specimens you see from outside Canada, we are just a -- it's being -- those sprinters are amazing, too. I mean some of the feats of strength that I have seen some of the East German sprinters do, and they are not that fast, but I have seen some of them work out and they are amazingly fit athletes, shall we say.

20

Q. Thank you. Now, when Charlie Francis testified here he told the Commission about a conversation he had had with Mr. Dolegiewicz about an incident involving Mr. Dolegiewicz in the 1981 World Cup in Rome.

25

First I would like to ask you do you recall any discussion with Mr. Dolegiewicz about such an incident?

A. In Rome in 1981?

Q. Perhaps I can just add --

A. Maybe you should --

Q. I will summarize what Mr. Francis told
5 us.

THE COMMISSIONER: You have got to go more
than that --

THE WITNESS: I wasn't in Rome.

10

MR. PRATT:

15

Q. I realize that, sir. Mr. Francis told us he was told by Mr. Dolegiewicz, although he wasn't there either, that Mr. Dolegiewicz witnessed an exchange of Dianabol for some amphetamines, I believe, involving the medical directors of three prominent western countries.

Now, I just want to ask you if that rings any kind of a bell in relation to something Mr. Dolegiewicz may have told you?

20

A. I haven't heard anything about that. I have heard that he had some kind of exchange with somebody from New Zealand and Australia, somebody that was prominent there in the medical end of things, but I don't know anything about this one in Rome.

25

Q. That may or may not be the same

incident, then?

A. I don't know.

Q. It's certainly something that Mr. Dolegiewicz told you about over the years?

5 A. I don't know where I got that information from. It may well have been Bishop. He was exchanging steroids for many things in those days.

MR. PRATT: Thank you, sir, those are my questions.

10 THE COMMISSIONER: Excuse me, we will just take a short break and I will speak to Mr. Bourque and we will be back.

--- Short recess.

15 --- Upon resuming.

THE COMMISSIONER: We are now going to adjourn until 2:15. We have a bit of a procedural problem which we hope to resolve over the lunchtime. We will 20 adjourn until 2:15.

--- Luncheon recess.

25

---- Commission resumed.

5 MR. BOURQUE: Mr. Commissioner, I was able to contact my client over the noon recess and resolve that issue we discussed.

THE COMMISSIONER: Thank you.

---EXAMINATION BY MR. BOURQUE:

10 Q. Mr. Gray, I represent the Canadian Track and Field Association. My name is Roger Bourque. Now with respect to your evidence this morning concerning Mr. Larry Eldridge and the encounter you had with him in Venezuela in 1981, may I ask you who else was present at the time?

15 A. In the room?

Q. Yes.

20 A. I believe I was there, Bishop Dolegiewicz, Jack Harkness, Charlie Francis and Harold Willars may have been there. I'm not sure. He was on that trip I believe.

Q. Anybody else?

A. I can't -- it's eight years ago, sir. I can't really remember.

25 Q. And can I ask you, were you drinking at the time?

A. I believe we had some beer and I believe that Bishop and Jack had some gin or vodka in the room.

Q. I see. And were you, yourself,
5 drinking?

A. At that point in time? I have no doubt I had a beer in me.

Q. Anymore?

A. Well, I believe I had a six pack of beer because I remember -- actually somebody else came in later on that trip, and it's sort of gone down in legend. A hammer thrower from British Columbia came in and gave me a hard time for having a beer the night before the meet and I said "what's this?" I looked at him like who are you to tell me what to do, and Bishop interjected at that point and said -- oh, I forgot something.

Actually Bishop and Jack were both drinking the gin or vodka straight and it looked like they had water in their glasses, and Scott, the hammer thrower, said to me "Why don't you do what Bishop and Jack are doing, drink water." I said, "Those guys are drinking straight alcohol." At that point Bishop interjected and said, "How dare you come into our room and tell us how to run our lives," et cetera.

Q. In any event, there was general
25

drinking in the room.' It was sort of a party atmosphere?

5

A. I wouldn't say it was a party atmosphere. It was more of a sitting-around-the-night-before-meet in the middle of nowhere waiting to compete, talking about things. It was not a party atmosphere.

10

Q. And when Mr. Eldridge came into the room, was he in a serious mood?

A. He was in serious mood that whole trip. He tried to send us home earlier on that trip.

15

Q. Well, can we just concentrate on when he came in the room? Was he serious?

A. Honestly, I can't recall, sir.

Q. Was he angry?

A. I have no recollection of him being angry or not.

Q. Do you accept that you gave the answer that Mr. Francis said you did?

A. I don't remember what I said.

20

Q. Is it possible that you gave the answer Mr. Francis said you did?

A. Charlie has an amazing memory. It's very possible.

Q. You're prepared to accept that?

25

A. I'm prepared to say that if Charlie

says I said that, it's more than likely true.

Q. If you had said that, would you agree with me that it was a flippant answer?

5 A. Well, it was a flippant answer to a problem that had arisen that year as a result of problems with the CTFA and the throwers. The throwers for a period of time --

Q. I just asked you, sir. Was it flippant? Can you just --

10 A. No, it wasn't, it was serious.

Q. It was a serious answer?

A. Yes, it was, sir.

15 Q. That you should be provided funding from the government to buy steroids in Canada rather than having to go --

20 A. No, you misunderstood me, sir. You misunderstood me. The comment was made with respect to -- there was a nutritional supplement that was provided to throwers by Sport Canada for a number of years prior to this, and that year it had been for some reason, I don't know why, they had discontinued it, and the comment was meant towards that.

25 They had taken that away; therefore, we had less money from our monthly stipends or cheques. We got less as a result of this money being taken away from us.

Q. That money was intended by Sport Canada, I suggest to you, not for steroid purchases but for vitamins and food; is that correct?

5 A. That's what it says on the -- it said in the documents, yes.

Q. And you knew in 1981 that the CTFA had banned steroid use for Canadian athletes?

A. Yes.

10 Q. So I suggest to you that for you to suggest to Mr. Eldridge that your attempt to purchase steroids in Venezuela could be remedied by his increasing the nutritional supplement you received from Sport Canada was a flippant answer?

15 A. I'm not sure flippant is the right word.

Q. Disrespectful?

A. Well, I didn't think too highly of him at the time.

20 Q. Did Mr. Eldridge leave without any further discussion?

A. I can't recall.

Q. And if I have your evidence right, in any event you did not purchase any steroids in Venezuela?

A. I can't recall.

25 Q. You think you purchased some

anti-inflammatories?

A. Very possibly because I had a broken toe at the time.

Q. You do recall that?

5 A. Yes. Well, you remember a broken toe.

Q. Sure. Now the nationals in August 1988, do you recall or can you recall with me if they were held from Friday, August 5th through Sunday, August 7th?

A. That rings a bell, yes, that's correct.

10 Q. And I understand that it's your testimony that this picnic table meeting happened on August 7th?

A. I can't be sure. I believe it was.

The only reason I base that is that I wrote a letter confirming the conversation on that day.

15 Q. That's right.

A. But it could have been the Saturday. I think it was the Sunday though. I think it was the last day of the meet.

20 Q. As I understand the letter you have written on August 8th to I believe Mr. Dupre, was in reference to the meeting the day before?

A. The letter was dated August 8th I believe.

25 THE COMMISSIONER: I think that's right.

MR. BOURQUE:

5 Q. Yes, Exhibit 199. Exhibit 199 do you have it before you? It's your letter of August 8th to Mr. Dupre, and it says, "I acknowledge receipt of your letter dated August 2nd, 1988, and confirm our conversation of August 7th, 1988, at the Canadian Track and Field Championships in Ottawa."

10 Is that conversation, in fact, the picnic table meeting we've heard so much about?

A. I believe so. I went home from the nationals and I think that night I drafted both these letters.

15 Q. And did you travel back to Toronto with Mr. Dajia, by the way?

A. No, I didn't.

Q. And August 7th would have been the third and final day of the nationals in 1988; is that correct?

20 A. I believe so. Sunday. That's the Sunday.

Q. Yes. Upon which of the three days did you compete in the discus?

25 A. I believe it was Friday and Saturday in the qualifying round.

Q. And which of the three days did Mr. Dajia compete in the shotput?

A. I believe Mr. Dajia may have been finished on Friday, but I'm not sure.

5 Q. Now you know of course that Mr. Dajia has been here to give evidence. Did you watch it on television?

A. I watched parts of it, yes.

Q. You didn't watch all of it?

10 A. No, I didn't.

Q. Did you watch the cross-examination by me?

A. I saw the highlight. It was on the highlight film that night. I saw that.

15 Q. I understand there were no highlights. Did you read the transcript?

A. No, I haven't.

20 Q. Well, are you aware from the highlights that you have seen that Mr. Dupre denies that Mr. Dajia was present for any part of this meeting at the picnic table?

A. That's what I understand.

25 Q. And similarly, that Mr. Savage and Mr. Ouellette will deny that Mr. Dajia was present for any part of that meeting?

A. Well, with respect to Mr. Savage, Mr. Savage called me the day after Mr. Dajia gave evidence to ask me about my recollections of the meeting, and at that time he did not remember if Peter was there or not.

5 That's what he said to me. So --

Q. That's what he said to you or that's what you said to him?

A. No, he said to me, "I don't remember him being there." He wasn't as firm as you're putting it
10 there.

Q. That will be the subject of evidence too, I assure you.

A. I hope so.

Q. Are you aware that Mr. Wade, I'm instructed will take the stand here and state that Mr. Dajia was not present for any part of that picnic table meeting?

A. I'm aware of that.

THE COMMISSIONER: Who was there then? Was
20 there no meeting, Mr. Bourque? Nobody seems to be there.

MR. BOURQUE: No, I'm saying Mr. Dajia wasn't there.

THE COMMISSIONER: You said Mr. Wade wasn't there, Mr. Savage wasn't there? Who was there?

MR. BOURQUE: No, I didn't say that, sir.

I'm suggesting that they will say Mr. Dajia was not there.

THE COMMISSIONER: Oh, I see. I'm sorry.
I misunderstood.

5

MR. BOURQUE:

Q. In any event, what do you say to those denials?

A. I say they are mistaken. Peter was there for a period of time.

10

Q. Are you certain about that?

A. Yes, I am, sir.

Q. And is your recollection of this meeting vivid and certain?

A. Yes, because I spent all weekend trying to arrange this meeting.

15 Q. All right. Now can you tell me -- Mr. Savage, Mr. Ouellette, Mr. Dupre, as you testify now about these events of ten months ago, can you see them seated around the table in your mind's eye?

20 A. Not really. I think Mr. Dupre was across from me because he was doing most of the talking. I'm trying to picture it and it's very difficult.

Q. You testified that Mr. Wade was standing off to the side. I suggest to you then you do have some recollection of him actually standing off to the

25

side. Can you see him there in your mind's eye now?

5

A. I can see him hovering around, but you've got to remember, this area is -- there is a lot of people around including my brother and a few of the other athletes I was there with, and I remember Casey coming over later on in the meeting. I don't know how soon or if he was there the whole time, but he came over later on and he was hovering around for a period of time until he sort of got invited into the meeting.

10

Q. Was anyone else standing nearby with Mr. Wade or hovering nearby with Mr. Wade, as you put it?

A. I can't recall, but there is -- it was --

15

THE COMMISSIONER: Did you arrange this meeting?

20

THE WITNESS: Yes, I had spoken to Mr. Savage on a number of occasions during the weekend. It's confusing, but trying to get everybody in one place was the difficulty, and I hadn't met Dupre, and I remember going to Mr. Savage and saying what kind of guy is he, can I do business with him, is he going to be a reasonable guy and he said yeah, I think you'll like him and get along with him.

25

And then the rest of the week it was trying to get everybody in the same place at the same time. It

was very difficult because everybody was meeting different places.

THE COMMISSIONER: Did you invite Mr. Dajia or did he just come along?

5

THE WITNESS: Mr. Dajia wanted to be there.

It was more dealing with him than me. He was the guy that had the immediate concerns because he wanted to make the national team that week.

10

THE COMMISSIONER: How would he know where to be? Did you tell him to be --

THE WITNESS: I grabbed him. I remember going to get him and saying let's go. We're going to go find Mr. Savage and --

15

THE COMMISSIONER: And he went with you to this picnic table?

THE WITNESS: Yes.

MR. BOURQUE:

20

Q. Now, sir, just to further compound the issue, I will tell you that I am instructed by the controller of the CTFA, Mr. Chris Kelly, that he is prepared to testify that he was standing off to the side of the table with Mr. Wade. Do you know Mr. Kelly?

A. Yes, I do.

25

Q. And do you recall seeing him there with

Mr. Wade?

A. Like I said, there was many people standing around that area. It was the media enclosure kind of thing. He could have well been there.

5

Q. And I'm further instructed by Mr. Kelly that he is prepared to testify that Mr. Dajia was not present at that picnic table meeting, at any part of it. What do you say to that?

10

A. I would say Mr. Kelly must have not seen the whole meeting.

Q. Now, did Mr. Dajia ever speak to you about a discussion he had had with someone in the office of the Minister of Sport in August of 1988 about the Sport Canada ban on funding?

15

A. The ban on funding? I think he may have mentioned to me that he spoke to someone by the name of Lane McAdam, but I'm not sure, who was the man that we got a letter back from him saying that the sports minister would give us an answer at some point in time. I believe it was September 1.

20

He promised an answer, a quick response. I don't think we got it until sometime like the second or third week of September, but I think Peter may have mentioned that he had spoken to somebody up there and I think he said it was McAdam, but I'm not sure.

25

Q. Do you recall if he told you that the message he got from Mr. McAdam was that it was completely up to the CTFA whether Mr. Dajia was at that time selected for the national team?

5

A. I've heard that since.

Q. Since meaning here in the inquiry in evidence?

10

A. I think so. I'm not sure if I heard that at that -- no, wait a second. Peter did tell me. He did tell me that that -- and that's what even upset him more because we were getting two different stories, one from Dupre and one from McAdam.

15

Q. So that message from Mr. McAdam then, you would agree with me, would be contrary to your understanding of the facts then and now?

A. It was contrary to what Mr. Dupre told me, and he came straight from Sport Canada shortly before that.

20

Q. Thank you. Now with respect to your reinstatement proceedings, you mentioned that in the beginning, there was some question as to whether they should be handled by the OTFA or the CTFA?

A. There was some concern about that, yes.

25

Q. I suggest to you that eventually the application of the three of you, Mr. Dajia, yourself and

Mr. Spiritoso, was brought before the CTFA Board of Directors in April 1988.

A. Well, that's true, it was.

5

Q. And at that time, the decision of the CTFA Board of Directors was that they were prepared to reinstate the three of you subject to certain conditions, and they sent that message on to the IAAF; is that correct?

10

A. They said they did.

Q. And we have heard that the IAAF council meeting that occurred later in April 1988 was not able to hear that request for reinstatement at that time?

15

A. Someone told me that was Zola Budd's controversy which was brewing at that time and kept them from getting to it.

Q. So what I am telling you is in accordance with your recollection?

A. Yes.

20

Q. And did it also come to your attention that summer that the next IAAF council at which your reinstatement request could be heard was not until much later in the year, in fact September 1988?

25

A. That was what I was told, and then we tried to maneuver into getting them to deal with it at the Junior World Championships in Sudbury at the end of July.

Q. And when you say "we tried to maneuver," who were you speaking of?

A. I spoke to -- I believe most of the time I was dealing with Steve Findlay of the CTFA. He was going to try to get in front of those people then to we could speed up the process.

5 Q. When you say get it before those people the end of July, you're speaking about IAAF representatives who would be present for the World Junior Championships to be held in Sudbury at the end of July 10 1988?

A. That's correct, and he was successful.

15 Q. That's right, and in fact those maneuverings between you and Mr. Findlay occurred in the months of May and also June 1988, is that not correct?

A. It would have been June and July I believe maybe. It was ongoing. It was a question of trying to get the testing done. We had to provide our samples and that took some time to get organized. It was ongoing until -- we didn't know for sure until in July, and actually, I was thinking of going up to Sudbury to see if I could find the right people to talk to.

20 Q. In view of the fact that this opportunity to bring your request before the IAAF representatives in Sudbury at the end of July 1988 was the 25

last, if not the only opportunity that could be had before the nationals in Ottawa, I suggest to you, sir, that in fact there was some urgency to the maneuvering that you and Mr. Findlay engaged in?

5 A. Oh, most definitely. Especially after it took the CTFA so long to get our tests done, to fulfill the conditions that they had put up on us. It took them, I believe it was July 6th or something like that that they finally arranged the sample to be taken. I understand, to
10 be fair to Steve Findlay, that there was problems trying to find a lab to do it because Dr. Dugal would not do it because of his contract with the Sports Medicine Council.

15 Q. And the urine samples that you and Mr. Dajia had to provide for this test, you recall that was in early July 1988?

A. I believe it's on one of the pieces of correspondence, but I believe it was July 6th.

20 Q. Right. And the so-called maneuvering that you and Mr. Findlay engaged in to get this before the IAAF representatives at the end of July 1988 occurred prior to the urine tests being collected?

A. I think it probably happened after because I'm not sure how much maneuvering they would have wanted to do if one of us happened to come in positive.
25 I'm not sure.

I mean, that was Steve's -- I had nothing to do with really talking to the IAAF or anything like that. I was just dealing with Steve on a sporadic basis, to tell you the truth. Peter was doing most of the dealings with Steve at that time.

5

Q. Right. In any event, if I suggest to you that the CTFA was in correspondence with Mr. Michael Gee of the IAAF in London, England in May and June of 1988 working on your reinstatement and Mr. Dajia's reinstatement, would you be able to deny that?

10

A. I would expect that. Steve Findlay is an honourable guy and he told me he was faxing him quite often, sending him letters left and right, and I believe him. He has never done me any wrong.

15

Q. Now if I may switch topics, with respect to the OTFA investigative hearing in December 1986, just to roll back the clock a little, I believe you did use anabolic steroids in training for the nationals in 1986, did you not?

20

A. Yes, I did.

Q. And you were aware at the time of the OTFA investigative hearing in December 1986 that Mr. Dajia had similarly used anabolic steroids in training for the nationals in 1986?

25

A. That's correct.

Q. And the same applies to Mr. Spiritoso?

A. That was my understanding.

Q. And in fact, both of them told you that was the case, did they not?

5 A. I'm not sure if they told me. I think I knew. They did tell me they had not taken the substances that they were found positive for.

10 Q. Okay. And contrary to what you told us this morning, I'm going to suggest to you that you were, in fact, asked, you and Mr. Dajia and Mr. Spiritoso, at this investigative hearing not whether you had used those specific steroids but whether you had used any banned substance at any time?

15 A. It was a long hearing and I can't remember. At some point I remember Mr. Savage saying to me at the very end, we were just breaking at 2 o'clock in the morning after ten hours of the hearing, he asked me something along those lines. I can't remember the exact wording, and I said that's not the point here, something like that, to that effect, that's not the point here. No, that's not the point here and we just went on. That's my recollection. It's sort of a very -- at that point we were a little blurry.

20 Q. Well I suggest to you that much earlier on in the hearing, that question was put to you, all three

of you, and you all denied it.

A. It was not put to me earlier in the proceedings. I can't remember whether it was put to Peter or Michael.

5

Q. Now, is it your understanding that what you tested positive for in 1986 were 19-nortestosterone and Nandrolone?

A. Well, that's what I was told. That's what the CTFA told me.

10

Q. And did they indicate that there were any other test findings?

A. Not in my case, no.

Q. And in the case of Mr. Dajia or Mr. Spiritoso, was there an indication of other test findings?

15

A. I believe there was testosterone also in both their cases.

Q. Well, more particularly I suggest to you that their tests yielded a testosterone-epitestosterone ratio in excess of 6; is that correct?

A. That is the banned level. I don't know. They never told us exactly what the number was, but that's correct.

Q. Regardless, they were in excess of 6. That was your understanding at the time?

25

A. That's what I said. They were tested positive for testosterone.

Q. Right, and I suggest to you that such a finding is a general indicator of anabolic steroid use without reference to any particular steroid.

A. Well, I think it's a finding of using testosterone. Well presumably, there is some theories, I understand, that people can have higher than 6 to 1 ratios naturally, but I'm not sure what it means. I'm not a scientist.

Q. In any event, you were aware of the finding of this ratio in December 1986?

A. Yes, definitely.

Q. And to your knowledge, was the investigative panel aware of that finding at the time of the hearing? I suggest to you it's obvious they were.

A. It was there in front of them, yes. There was some question at the very beginning when Glen Bogue was calling us after the positive test was announced what actually the substances were. He didn't get it right.

Q. Well, let me suggest to you, sir, that it's highly implausible that that investigative panel would have been satisfied with a partial denial of anabolic steroid use given they had that reading in excess

of 6?

A. I'm not sure of the point of your question. Maybe you could repeat it to me.

Q. You said, you agreed with me, that an epitestosterone-testosterone ratio in excess of 6 is an indication of testosterone use?

A. It's an indication by Dr. Dugal's and the IOC standards on testosterone use.

Q. Well, you don't question their authority, do you?

A. Yes, I do. I have been for two and a half years or three years now. I don't question their authority, I question their test results.

Q. I'll leave that there. Now am I correct in understanding, sir, that at one time, just to round out Mr. Armstrong's review of your antecedence, you are a member of the Board of Directors of the CTFA?

A. I was for two years.

Q. By virtue of your membership on the national team?

A. I was selected by election, by my teammates on the national team at the 1984 Olympics.

Q. And during what term were you a member of the CTFA Board of Directors?

A. From July of '84 to June of '86.

Q. And you were the national team representative on that board of directors?

A. That's correct.

Q. During that entire period?

5 A. That's correct.

Q. And did you attend all of the board of director's meetings in that period?

A. No.

Q. How many did you miss?

10 A. I really don't know. I remember I was articling at one time and I was called to help for a trial or something like that. I probably missed a couple out of the four or five a year, as most of the board members did. I'm not sure. I think I was there for more than I missed.
15 Let's put it that way.

Q. All right. And at board of director's meetings at which you were present, was there discussion by the CTFA board of doping control policy?

A. Yes, there was.

20 Q. And doping control procedure?

A. Yes, there was.

Q. And in 1984, at any such meetings, can you tell me what steroids were you taking in 1984?

A. What time?

25 Q. From July to the end of the year?

A. None.

Q. And in 1985, what steroids were you taking?

5 A. In the fall of 1985 in an effort to make the Sport Canada standard, I took some Dianabol and

that's about it.

Q. Nothing else?

10 A. Unfortunately, I don't have a diary like some of my colleagues, but that was usually what I would take. I may well have -- also with Dr. Astaphan. I can't forget him. I went to see Dr. Astaphan and got the milky-white stuff.

Q. Right. That was in '85?

A. That's correct.

15 Q. And in 1986 through June, what steroids were you taking while sitting on the Board of Directors of the CTFA?

A. I'm sure I took Dianabol and the milky-white stuff.

20 THE COMMISSIONER: You were still seeing Dr. Astaphan, weren't you, into '86?

THE WITNESS: Yes, actually Dr. Astaphan -- we went to see him the day after our positive test came up and he gave us some advice about the possibility that 19-nortestosterone was natural.

25

THE COMMISSIONER: Before that, you had seen Dr. Astaphan I think right through '86?

THE WITNESS: Yes.

THE COMMISSIONER: You would take time out
5 for the clearance times, but you were getting regular treatment from Dr. Astaphan?

THE WITNESS: Yes, from the fall of '85 through July of '86. I was training full-time at that time. I was in the bar admission course.

10

MR. BOURQUE:

Q. Now finally, Mr. Gray, in your closing evidence, you testified as to the lessons you have drawn from being suspended, if I may put it that way, and you said that as a result of your experience, that your advice to youngsters now would be to stay away from steroids; is that correct?

A. Yes.

Q. And can I ask you, when did this lesson become instilled? Was it in June '86, December '86, sometime in '87?

25

A. I would say it's more of a long-term process than that. It doesn't hit in right away. The effects of it has been long lasting and worsened in the past, shall we say, months.

5

Q. But you are not saying that this is a lesson you have learned since Seoul, is it?

A. No, no, no.

Q. It was something that you felt sincerely well before the Seoul Olympics?

10

A. I am not sure when it was. I mean it is a growing thing, it is --

Q. All I am asking is you when did you begin to feel that way?

A. I am not sure, sir.

15

Q. Approximately?

A. I can't give you a range for that, I don't know.

20

Q. And you stated as well that you have come to the realization that anabolic steroid use is not fair to other athletes. I presume you mean athletes who are not using steroids?

A. That's correct. Which, of course, in my level internationally wasn't very many. It's the people behind you in Canada.

25

Q. Right. And when did that lesson take

hold with you?

A. Same answer, I don't really know.

Q. Was it before August 1988?

A. I have no idea.

5 Q. I noticed that in your evidence in
August 1988 when you were approached by a Canadian coach
about purchasing growth hormone for a Canadian athlete,
you did not try and dissuade him from doing so, did you?

A. Actually, I did.

10 Q. I did.

A. I told him there would be no benefit
and there would be no purpose in it.

15 Q. You told him it would not be effective
because she should have been on it months before; is that
not correct?

A. Well, that's correct.

Q. You did not object to him upon ethical
grounds, did you?

20 A. At that level of sport you are not
talking about ethics any more. He was preparing for the
Olympics. He was trying to get his girl ready for the
Olympic Games.

25 Q. What you did to assist him in that was
you referred him to a possible source of human growth
hormone; namely, Mr. Peter Dajia in August 1988, didn't

you?

A. Actually I suggested that would be the person to contact and then he asked me if I would and I didn't go through with it.

5

Q. You told him to contact Mr. Dajia to assist him in buying human growth hormone?

A. As my recollection would be that I said he is the only guy I can think of that would have any idea where to get it.

10

MR. BOURQUE: Thank you, I have no further questions.

THE COMMISSIONER: Thank you. Any re-examination, Mr. Sullivan.

15

MR. O'SULLIVAN: Yes, thank you, Mr. Commissioner. I know, Mr. Commissioner, that there is no interest in relitigating or re-arguing the 1986 proceedings --

THE COMMISSIONER: I am not sitting as the Court of Appeal Judge.

20

THE WITNESS: I wish you were.

MR. O'SULLIVAN: Yes. I do think so that there be no misapprehension --

THE COMMISSIONER: No, I would be interested in the process.

25

MR. O'SULLIVAN: -- there was a question

put to Mr. Gray, I believe by Mr. Morrow, which presupposed the basis upon which the relief was sought.

THE COMMISSIONER: Perhaps we can get the original court papers.

5 MR. O'SULLIVAN: What I can do is file the factum with you if that is necessary.

THE COMMISSIONER: Is that your factum?

MR. O'SULLIVAN: Yes.

10 THE COMMISSIONER: Which you lost. Let me see the other side.

MR. O'SULLIVAN: That was Mr. Laskin, it was more persuasive. What it does do is set out the factual underpinning of the --

15 THE COMMISSIONER: I would like to see it. We don't have to mark it as an Exhibit. I think I would be interested -- thank you.

MR. O'SULLIVAN: You will see the factual process is --

20 THE COMMISSIONER: Do you have -- Mr. Bourque, do you have the other factum? You are raising for something. Do you have the case book?

MR. BOURQUE: Actually what Mr. Freedman has is the motion record, the moving party's --

25 THE COMMISSIONER: I am sorry, do you have any questions, Mr. Freedman?

MR. FREEDMAN: I don't, Mr. Commissioner,
thank you, but I do have the motion record and --

THE COMMISSIONER: Would you do me a favour
and get it all together and file them, leave them with Mr.
5 Nunn.

MR. O'SULLIVAN: I have given Mr. Armstrong
a copy of the motion record --

THE WITNESS: Only part --

THE COMMISSIONER: And part of the factum
10 as well?

THE WITNESS: Only part of it, you have
only given him part of it.

MR. O'SULLIVAN: Not the factum, I think
you have the motion record.

15 MR. FREEDMAN: We will make sure they all
get together.

THE COMMISSIONER: All right. Give them to
Mr. Nunn so that I will be sure to see it.

20 --- EXAMINATION BY MR. O'SULLIVAN:

Q. The other point with respect to that in
your proceedings in 1986, Mr. Gray, at which time an
injunction was sought to restore you to the national team,
did you file any affidavit material or at any time deny
25 taking steroids?

A. No, I didn't.

Q. And have you to the best of your recollection since that time in any proceedings denied taking steroids?

5

A. No.

MR. O'SULLIVAN: There was one issue that came up as well, Mr. Commissioner, and it is my last point, during the cross-examination of Mr. Gray.

THE COMMISSIONER: Yes.

10

MR. O'SULLIVAN: And that is with respect to what his understanding was of the Sport Canada policy and why he was surprised.

THE COMMISSIONER: Right.

15

MR. O'SULLIVAN:

Q. In 1986, in response to undertakings given on the cross-examination of Mr. Wedmann, I received a letter from Ms. Christine Medland, who was then assisting John Laskin, who was counsel to the Canadian Track and Field Association.

20

And this was in response to a press release or statements in the press attributed to Mr. Jelinek, the effect of which said that his action in suspending Messrs. Gray, Spiritoso, and Daija had effectively ended their amateur athletic careers. That was in quotation.

25

THE COMMISSIONER: Right.

MR. O'SULLIVAN: In the course of the proceedings, I put to Mr. Wedmann and his counsel just who controlled the national team. Was it Sport Canada, because, in fact, I didn't know, or was it the Canadian Track and Field Association.

5

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15

20

And the answer I got back, and it was given, of course, to Mr. Gray, was this statements of Otto Jelinek in a recent press conference are contrary to Sport Canada policy statement which provides as follows: Any athlete that has been proven through appropriate due process to have used banned drugs in contravention of the rules of his national or international sport federation will be suspended forthwith from eligibility for the Sport Canada Athletic Assistance Program, and any other financial programs support provided directly to the athlete or indirectly by Sport Canada through the national sports organizations.

And so in terms of the basis for his information or belief, it was in these two documents. And I make those exhibits if that would be of assistance to the Commissioner.

25

THE COMMISSIONER: Let's do that, please.

MR. O'SULLIVAN: The first document I have handed to the Registrar, Mr. Commissioner, is the press

release.

THE REGISTRAR: 201.

THE COMMISSIONER: 201.

5

--- EXHIBIT NO. 121: Press Release.

MR. O'SULLIVAN: And a copy of the letter dated July 17, 1986 over the signature of Christine Medland.

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THE REGISTRAR: 202.

--- EXHIBIT NO. 202: Letter dated July 17, 1986

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MR. O'SULLIVAN: Those are all the questions and submissions I have.

MR. BOURQUE: I wonder if we might read those letters before relinquishing our rights to Mr. Gray.

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THE COMMISSIONER: Okay. All right. I am going to ask a few questions while you are reading the letters.

MR. BOURQUE: Thank you, sir.

THE COMMISSIONER: Mr. Gray, you have said that you are now coaching yourself, you have one athlete?

THE WITNESS: Yes, I do.

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THE COMMISSIONER: You propose to coach

others if you get the opportunity, is that what you are doing?

THE WITNESS: I would like to. I would like to coach up to the national level if I could. I think I have a lot to offer to the sport.

5 THE COMMISSIONER: You have said that in your coaching you discussed steroids with your athlete?

THE WITNESS: Of course, yes. It is very a popular topic right now.

10 THE COMMISSIONER: And tell them not to take them?

THE WITNESS: Yes.

THE COMMISSIONER: You have had coaches, I guess since what?

15 THE WITNESS: Well, '70. I had a coach since '71.

THE COMMISSIONER: '71.

THE WITNESS: But really a good coach starting around '77-'78.

20 THE COMMISSIONER: Did any of these coaches you have had in the past know that you were on steroids?

THE WITNESS: Yes.

THE COMMISSIONER: Your coach, your SMU coach?

25 THE WITNESS: I believe he did, yes.

THE COMMISSIONER: You mentioned somebody at York Center, what was his name?

THE WITNESS: Mike Mercer.

THE COMMISSIONER: Mike Mercer?

5 THE WITNESS: Mike Mercer, yes, he was my coach for the last couple of years while I was competing.

THE COMMISSIONER: Was he hired by the CTFA?

10 THE WITNESS: He went through the Masters coaching program. What he was trying to do was become hired by the CTFA, and they ended up giving the job to someone else less qualified.

THE COMMISSIONER: When you say he knew about it, did he discuss it with him?

15 THE WITNESS: He was a former thrower. He had thrown in the sixties. He knew the realities of the situation. He knew had thrown actually all the way to '81. He was a competitor, an international competitor off and on from 1968 to '81.

20 THE COMMISSIONER: Well, if you were giving your athlete advice now, why didn't you give it to yourself not to get on drugs?

THE WITNESS: Give it to myself?

25 THE COMMISSIONER: Why didn't you? What I am trying to seek out in some of these cases is why you

would take these drugs? You knew some of the potential side effects? If I might say so you are an intelligent young man and going to university, you know it's cheating.

THE WITNESS: Yes.

5 THE COMMISSIONER: You had a contract since '83 at least not to have drugs in your possession.

THE WITNESS: Sometime around then, yes.

THE COMMISSIONER: And you aspired to a professional life.

10 THE WITNESS: Yes.

THE COMMISSIONER: Well, how could someone go on that road of cheating even at the risk of health? Why? Why was it so necessary?

15 THE WITNESS: Your desire to win takes over everything. It is -- you find out --

THE COMMISSIONER: You said it was because the standards for carding were so high.

THE WITNESS: Well, that's one of the reasons.

20 THE COMMISSIONER: Well, you are not entitled to federal funding as a right.

THE WITNESS: No, I know that.

THE COMMISSIONER: Your desire to win is that what was doing it, driving you, is that --

25 THE WITNESS: It's one of the factors. It

is a very complicated psychological process. You sit there, you find out that everybody else is doing it.

THE COMMISSIONER: But you go to law school and I guess on occasion through your academic career some people have cheated, in high school, university.

5 THE WITNESS: I suppose so; I have never met anybody --

THE COMMISSIONER: Does that mean other people should follow suit?

10 THE WITNESS: Oh, no. Let me put it this way: If I had started in the profession of law and found out that all the top counsel were doing something that was against the rules of civil procedure, perhaps.

THE COMMISSIONER: Yes.

15 THE WITNESS: And that was the way to get to the top --

THE COMMISSIONER: You would do it?

THE WITNESS: I don't know if I would do it or not, particularly not now I wouldn't do it. I wouldn't do it now, I have learned a strong lesson from this --

20 THE COMMISSIONER: Where does this great desire to win come from? From competition? From your colleagues or?

THE WITNESS: From right here, from my heart.

THE COMMISSIONER: From your gut, from your heart. But here you are one of our Canadian stars for years.

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THE WITNESS: Well, I wasn't very high profiled, but I was --

THE COMMISSIONER: Well, you were a champion.

THE WITNESS: Yes.

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THE COMMISSIONER: And you received over the years fairly substancial financial support from the government of Canada, right?

THE WITNESS: I won't argue with that.

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THE COMMISSIONER: And those funds I think are to create the young Canadians who are going to be effective role models for others as well as help them in their future career; you knew that?

THE WITNESS: Yes.

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THE COMMISSIONER: Wouldn't that dawn on you, then, say, well, gee, I can't do this, I have got to do it on my own. I am supposed to be an example for others.

I don't like preaching, but I have trouble sometimes finding out what --

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THE WITNESS: The thing is you wouldn't be there to be the role model if you didn't do it. It is a

simple as that in my sport. You just can't --

THE COMMISSIONER: That's a pretty poor role model to cheat.

5 THE WITNESS: I agree, but I never asked to be the role model. But looking back on it, I never thought of it in those terms, My Lord.

THE COMMISSIONER: And these coaches just sort of knew you were doing it and just carried on, ignored it, I guess.

10 THE WITNESS: Well, yes, ignored it. They knew what was going on, they just didn't --

THE COMMISSIONER: You see what's been quite apparent to me over the last few months is that when a person starts on the road of cheating, there is a great danger, you know, that they are going to continue cheating in the competitive world in which we live. You know that?

15 THE WITNESS: I -- arguably I suppose that could be. I don't cheat in my professional world.

THE COMMISSIONER: I assume you don't. I hear very good reports about you as a member of the bar, but I have seen it. So, what's the answer?

20 THE WITNESS: I don't -- I wouldn't want to be in your shoes.

THE COMMISSIONER: You say you love the sport, and what's the answer then for future discuss

throwers in Canada?

THE WITNESS: I can't answer that. I don't know how we are going to compete with the rest of the world unless the rest of the world cleans up their act, too.

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THE COMMISSIONER: Well, first of all you had to compete against Canadians to make the international team.

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THE WITNESS: That's correct. One of the things that should be done in my view is that the top Canadians should be the ones who get the support, the top three -- no -- let's not put any standards on it.

THE COMMISSIONER: The standards, not the Olympics standards.

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THE WITNESS: Let's throw out the starting standards --

THE COMMISSIONER: That's not going to make you a gold medalist. That just gets you on the team. I think there is a lot of merit in that that the best athletes should represent Canada, whether they win a medal or not, is that what you are saying?

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THE WITNESS: Yes. I am saying Sport Canada should be spending their money on developing the athletes, the top three athletes in every event in the country because especially in my event, and Mr. Armstrong

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didn't ask me about it, but my event, I am at my peak now, 32 years of age. The next five years I could still compete at a very, very high level in this sport, probably 10 years.

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It is a sport where you have to take, as one of my old coaches tells me, you have to take about a million throws --

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THE COMMISSIONER: No, no, but you still have that heart is still to win, isn't it, and if you still say everybody else is still on the drug scene --

THE WITNESS: You see the pressure on athletes is to do it quickly. For example --

THE COMMISSIONER: Instead of taking the years to develop the increased expertise?

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THE WITNESS: That's right. I think any one of us can develop to the same heights without them.

THE COMMISSIONER: Over a longer period of time?

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THE WITNESS: You have the long period of time to do it. There is the social pressures that are on people. You go to university on a scholarship like I did, and all of a sudden you get out, you are 22 years of age. Unless you have a father like I do who was very athletically inclined and very into supporting me through my endeavours, what do you do? You are like Mike

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Spiritoso starting a new job. He is lost now forever. The greatest shot put talent this country has ever had is never going to compete again. He is 25 years old.

THE COMMISSIONER: That's his own fault,
5 isn't it? Surely it's not the fault of the carding system. I can't understand how you --

THE WITNESS: The carding system -- I disagree, sir. I think the carding system it -- it really -- it makes you have to think about it. To get 10 carded is the only way you can actually live after you get through on a scholarship or something. You have got to work out full time to be a world class athlete. You need the government funding --

THE COMMISSIONER: It is a condition of 15 getting the money you are not to take drugs?

THE WITNESS: That's the catch 22.

THE COMMISSIONER: I know it is a catch 22. You sort of give the image that somehow if you wanted to be an athlete you are entitled to funding?

20 THE WITNESS: No, I don't. I think that the American system where they don't fund people is one of the greatest motivators. People get good fast down there because they have to to survive.

The thing of Sport Canada in my view should 25 be helping the athletes stay in the sport a long time,

particularly my event, the throwing event, which are -- you reach your peak when you are in your thirties. But because of society's pressures, get a job, buy a house, get a car, et cetera, have a family, those things you have to delay all of those things. It's a sacrifice. I never looked at it as a sacrifice because I enjoyed it so much, but it is -- these things you leave behind.

5 THE COMMISSIONER: Well --

10 THE WITNESS: And if you don't have funding --

15 THE COMMISSIONER: We live in a very competitive society, Mr. Gray, and you can apply all those social pressures to every young person going into professional or business community who wants to get ahead fast --.

20 THE WITNESS: If you are in a professional community like ours or mine anyways now, by doing well, in my community now, I am paid quite well, and therefore I can have these -- the other society pressures are somewhat taken off.

As a discus thrower I was living on \$4,000 a year. If it wasn't for my father and my wife, I would not have been able to continue to the age of 30 --

25 THE COMMISSIONER: But you said you loved the sport, it was fun, you were with your buddies, and you

loved the life. I don't know why that means -- encourage you to cheat and to risk your health.

THE WITNESS: Well, it -- to get to the -- I enjoy it now. I still enjoy it on the sense that I am doing it at a different level. I am going it just for fun, I go out and coach. I might pick up a discus once a month just to re-acquaint myself --

THE COMMISSIONER: You still enjoy it?

THE WITNESS: I love it. And I will never

leave it.

THE COMMISSIONER: All right.

Well, thank you very much for your assistance in coming forward.

Monday morning at 10 o'clock.

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--- Whereupon the proceedings adjourned until Monday, June 19, 1989 at 10:00 a.m.

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